



Oregon

Tina Kotek, Governor



Department of Consumer
and Business Services

Electrical and Elevator Board

Meeting agenda

**Late submission added to Item III.E. and
Correction to Item VI. draft rules**

Meeting date: Thursday, May 22, 2025

Time: 9:30 a.m.

In-person attendance: Building Codes Division Salem office in Conference Room A

Virtual connection and online streaming: View the live meeting or access the connection information for the Zoom meeting at: [Oregon.gov/bcd/Pages/bcd-video.aspx](https://oregon.gov/bcd/Pages/bcd-video.aspx)

I. Board business

- A. Call to order
- B. Roll call
- C. Approval of agenda and order of business
- D. Approval of the draft board meeting minutes of [March 27, 2025](#)
- E. Date of the next scheduled meeting: July 24, 2025

II. Public comment

The board will hear public testimony from individuals who have signed up in advance and for those connected virtually.

III. Reports and updates

- A. Electrical program update
- B. Elevator program update
- C. Board [consideration of Final Order](#) in The Matter of Winner Electric Construction, Inc. **(Board action required)**
- D. Board [consideration of Final Order](#) in The Matter of Paul Nelson **(Board action required)**
- E. Board vote on consent orders for [cases proposed for resolution](#) as outlined in the compliance matrix **(Board action required)**
- F. Final orders by default [outlined in the compliance matrix](#) **(No board action required)**
- G. Board view [Oregon Court of Appeals Decision](#) regarding Final Order in the Matter of Sean Murphy dba Murphy Family Electric **(No board action required)**

IV. Communications

This item is for the division to present advisory information.



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oregon.gov/bcd

V. Appeals

There are no appeals for this meeting agenda.

VI. Unfinished business

Board review and approval of the [proposed field evaluation process](#) and rules recommending to the Administrator to proceed to rulemaking (*original posted rules*)

VII. New business

- A. Board review request received from Marcus Fowler, 4664LEB, [for hardship extension](#) under [OAR-918-030-0240](#)
- B. Board review request received from Nathaniel Beisley, 4366LEB, [for hardship extension](#) under [OAR-918-030-0240](#)
- C. Board review request received from The Clean Air Act, for Jayson Dougherty, 4213LEB, [for hardship extension](#) under [OAR-918-030-0240](#)
- D. Board review request received from The Clean Air Act, for Andrew LeClair, 5238LEB, [for hardship extension](#) under [OAR-918-030-0240](#)
- E. Review and approval of electrical program [chief's recommendations](#) for new continuing education course and instructor applications

VIII. Announcements

The Board Chair or any of the board members may make announcements during this time.

IX. Adjournment

Board Chair or Vice-chair will adjourn the meeting announcing the specific time of adjournment.

*The meeting location is accessible to persons with disabilities. For questions about accessibility or to request an accommodation, please contact Debi Woods at debra.j.woods@dcbs.oregon.gov
Requests should be made at least 48 hours prior to an event*



**State of Oregon
Electrical and Elevator Board
Virtual meeting minutes of March 27, 2025**

Members: Thomas Kyle, electrical contractor, Chair
Jon Flegel, journeyman electrician, Vice-chair
David Albritton, industrial plant employing electricians
Lawrence Arnbrister, public member
William Barlow, electrical equipment mfr. industry
Robert Larzalere, journeyman elevator installer
Robert McNeill, elevator-manufacturing representative
Ryan Richards, electrical contractor
Al Schacher, electrical equipment supplier
Ken Spencer, power & light industry
Sara Young, journeyman electrician

Members absent: Elizabeth Bunga, building official
Richard Rudder, owner/manager of a commercial office building
Frank Sonnabend, electrical inspector
Vacant, commercial underwriter
Vacant, public member

Staff: Alana Cox, Administrator, Building Code Division
Todd Smith, manager, Policy and Technical Services (PTS)
Richard Rogers, chief building official, PTS
Brian Crise, electrical program chief, PTS
Damon Jensen, assistant electrical program chief, PTS
Andy Boulton, senior policy advisor, Housing and Building Safety Services
Richard Donovan, senior policy advisor, PTS
Ian Paik, policy analyst, PTS
Andrea Simmons, manager, Licensing Compliance Section
Michael Mayorga-Hamilton, contested case representative (CCR), Licensing Compliance Section
Emily Roque, CCR, Licensing Compliance Section
Kathy Rowell, CCR, Licensing Compliance Section
Graham Roney, assistant licensing manager, Licensing Compliance Section
Madison Yock, Training and Outreach, Training and Outreach Services
Laura Burns, support coordinator, PTS
Kaydi Milton, policy development coordinator, PTS
Debi Barnes-Woods, boards administrator/coordinator, PTS

Guests: John Ciliege, SGS
Steven Frierson, SGS
Wendell Whistler, Whistler Consultants
Shawn Hagen, guest
Rebai Tamerhoulet, guest
Cheryl Bell, Clackamas County

Tom Wassum, guest
Mark Ennis, City of Happy Valley
Chad Miltenberger, Sign Men
Nathan Philips, NECA
Jon Coulimore, guest
Elizabeth Torske, guest
James Imlah, guest
Greg Rogers, NFPA
John McCamish, guest

I. Board business

A. Call to order

The hybrid Electrical and Elevator Board meeting of March 27, 2025, was called to order at 9:30 a.m., by Chair Thomas Kyle.

B. Roll call

In-person: Chair Thomas Kyle; Vice-chair Jon Flegel; David Albritton; Lawrence Arnbrister; Robert Larzalere; Ryan Richards; Al Schacher; and Ken Spencer.

Virtual connection: William Barlow; Robert McNeill; and Sara Young.

Member excused: Elizabeth Bunga; Richard Rudder; and Frank Sonnabend.

C. Approval of the posted amended agenda and the order of business

Late submission to Item VII.D.

Chair Kyle ruled the late submission to the agenda and the order of business approved.

D. Approval of the board meeting draft minutes

Chair Kyle ruled the draft meeting minutes of Jan. 23, 2025, final.

E. Date of the next regularly scheduled meeting

May 22, 2025.

F. Welcome new board member Lawrence Arnbrister, to the vacant public member position

Member Arnbrister was introduced by Chair Kyle as he read a short script about his Senate Confirmation to include his term date start and finish along with the position Member Arnbrister is representing. Member Arnbrister was then offered time to say something about himself, and spoke of his retirement and his continued service with volunteering.

II. Public comment

The board will hear public testimony, including testimony from individuals who have signed up in advance

Policy Analyst Ian Paik left time open in case anyone who did not register in advance, or for those connected virtually, wanted to discuss general public comment. No one offered to speak.

III. Reports and updates

A. Electrical program update

Brian Crise, electrical program chief, Policy and Technical Services, updated the board and the audience with a brief program update because of the extent of the agenda:

- Legislative Session will continue through the end of June. Here is a link to the legislative [calendar](#)
- Smart-glasses and other similar devices that record are not permitted at testing sites. Notices were sent to all sites of the restriction to prevent potential issues
- Chief Crise continued to remind the virtual audience of these steps to follow when faced with issues - first contact your local jurisdiction; then contact the division if your issue is not resolved:
brian.crise@dcbs.oregon.gov or damon.j.jensen@dcbs.oregon.gov
 - [Brian Crise](#): Electrical program chief
 - [Damon Jensen](#): Electrical program assistant chief

B. Elevator program update

The usual reports were distributed in advance for the months of January and February.

If the board or the audience has questions or concerns, contact Warren Hartung, elevator program chief, Statewide Services, at Warren.j.Hartung@dcbs.oregon.gov or at 503.991.8977.

C. Board vote on consent orders for cases proposed for resolution as outlined in the enforcement board report (*Board action required*)

Kathy Rowell, contested case representative, Licensing Compliance Section, began to summarize the three consent orders listed in the enforcement report. She explained that the section acted on the board's behalf and entered into consent agreements in the three cases discussed. The penalty amounts assessed, amounts suspended, and amounts due and payable are consistent with the board's penalty matrix.

Motion by Member Ryan Richards to adopt the three cases proposed for resolution as outlined in the enforcement board report and issue final orders.

Roll call vote taken:

Yea: Sara Young; Ken Spencer; Al Schacher; Ryan Richards; Robert McNeill; Robert Larzalere; William Barlow; Lawrence Arnbrister; David Albritton; Vice-chair Jon Flegel; and Chair Thomas Kyle.

Nay: None.

Motion carried unanimously.

D. Summary of enforcement cases previously resolved by the division as outlined in the enforcement board report (*No board action required*)

CCR Rowell reported that three final orders on default were listed in the board packet for information. No board action required.

IV. Communications

2024 Annual Report

Manager of Policy and Technical Services Todd Smith briefly discussed the annual report that was available in the room and [on-line](#). Along with several other items of interest, manager Smith said that the electric vehicle infrastructure training program was included.

V. Appeals - None

VI. Unfinished business

No unfinished business was presented during this meeting.

VII. New business

A. Board make final decision for the request of proposed Program Assumption from the City of Happy Valley

Senior Policy Advisor Richard Donovan brought this issue back to the board for a final vote to either approve or deny the application for electrical program assumption. The board stated its concerns during the January 23, 2025, board meeting, and asked that the questions asked be updated in documents that were available in the March 27, 2025, meeting packet.

Mark Ennis, City of Happy Valley, said that because the city is growing, they feel that they are able to take on the additional responsibilities of assuming the electrical program from Clackamas County. Because the City of Happy Valley is already responsible for the structural, and plumbing programs and the mechanical permits, and it is mostly a residential community that it makes more sense to go to the city for businesses to use the same software for all work done in one location.

Mr. Ennis said that the city would continue an IGA with Clackamas for A-level inspectors.

Board Member Ryan Richards, a contractor who works in both the city and the county, said he does not see how this would maintain or improve the current service. Without having an A-level inspector on staff would mean poor service and confusion during inspections, which would result in safety concerns and building quality throughout the city. Member Richards also mentioned that documents state that the city would be responsible for compliance. He was concerned about not seeing residential inspectors going to hospitals, schools, and or churches or industrial facilities.

Mark Ennis, City of Happy Valley, said that it makes more sense to have a one stop-shop for residential inspections.

Board Member Sara Young said that she agrees with Member Richards. Member Young said that it seems as though the city is prioritizing on the residential side of things while the commercial side falls short. It would be different if the city had a more comprehensive program to include A-level inspectors giving them the availability of having a fully encompassed program with everything available within the city. Now, plan reviews are going back and forth from the city to the county then back to the city. That process is not constructive and is time consuming.

After careful consideration Member Richards made a motion to recommend the division deny the City of Happy Valley's application for delegation of an electrical program because the city's application does not meet the minimum standards adopted by the Electrical and Elevator Board by rule for inspections, permit applications and other matters to ensure adequate administration and enforcement.

Board Member Lawrence Arnbrister applauded Mark Ennis for thinking of customers first. From a homeowners view, he said it is difficult to wait for an electrical inspector, then a plumbing inspector or possibly inspectors from two different jurisdictions can be time consuming.

Cheryl Bell, Clackamas County, said that they have a great working relationship with the city and it would not be diminishing services by using the county's A-level inspectors. The county honors all electrical work and makes it priority for all IGA's.

Because there were no other questions or discussions, Chair Kyle called for the roll count.

Roll call vote taken:

Yea: Sara Young; Al Schacher; Ryan Richards; Robert McNeill; Robert Larzalere; William Barlow; Vice-chair Jon Flegel; and Chair Thomas Kyle.

Nay: Ken Spencer; Lawrence Arnbrister; and David Albritton.

Motion carried.

Because of further questions coming from the audience unrelated to board business, Senior Policy Advisor [Richard Donovan](#) suggested that conversation continue off-line.

B. Board action as Rulemaking Advisory Committee then make a recommendation to the Administrator to amend OAR 918-282-0260 limited building maintenance electrician license rules to align with the language in the National Electrical Code

Policy Analyst Ian Paik explained the process of the board acting as the Rulemaking Advisory Committee (RAC).

The purpose of this RAC is to assist the division to amend the limited building maintenance electrician license rules. This rulemaking is intended to amend the language in the rule and align it with the language in the National Electric Code.

The goal of this rulemaking advisory committee is to discuss the proposed changes as well as the potential fiscal, economic, and racial equity impacts of this rulemaking.

During the January 23, 2025, board meeting, the board received a request from the Limited Building Maintenance Electrician (LBME) committee to amend the language in OAR 918-282-0260 and align it with the language used in the National Electrical Code. The language change would combine the light fixtures and fluorescent ballast categories into one larger category: luminaires. During the March 27, 2025, board meeting, the board advised the division to begin this rulemaking process and draft the proposed rule language presented at this rulemaking advisory committee meeting.

The RAC will discuss three topics. The first topic is substantive and addresses the proposed language changes, and the final two topics address the potential fiscal, economic, and racial equity impacts of the proposed rulemaking.

Topic 1: Should the division align the LBME license requirement language with the National Electric Code's verbiage?

Discussion: As technologies are changing, the LBME committee is requesting a change on the verbiage in the standards, OARs, and other documents that reference the LBME requirements to align them with the verbiage used in the National Electrical Code (NEC). The NEC combines the categories of light fixtures and fluorescent ballasts into one category of luminaires. The hour requirement does not change for the license as the new category requires 500 hours equaling the 200 and 300 hour totals of the combined categories.

Majority of the committee said yes. The division should align the license language with the NEC to prevent confusion or insufficiencies caused by misalignment.

Topic 2: What are the potential fiscal and economic impacts of this rulemaking?

Majority of the committee said there is none.

Topic 3: *What are the potential impacts on racial equity in the state?*

Discussion: With any rulemaking the division is required to make particular note any potential impact on racial equity in the state that might result from the new rules. The division would welcome any input from the committee on the nature and extent of any impact this rule may have on racial equity in Oregon.

Majority of the committee said that they do not see any.

Analyst Paik asked the committee if they wanted to discuss any additional issues that were not previously brought up, or if the committee wanted to return to any previous issues that were discussed but where additional discussion may be beneficial.

There were no comments or concerns from the committee.

Hearing no comments or discussion, Analyst Paik said that the RAC has concluded its work and it is now time to return to regular board business.

Chair Kyle announced that the board is currently at Agenda Item VII.B. making a recommendation to the Administrator to align the LBME license requirement language with the NEC verbiage.

Motion by Board Member Young to approve the division's amendments to the limited building maintenance electrician license rules and forward to the Administrator for rulemaking and subsequent adoption.

Roll call vote taken:

Yea: Sara Young; Ken Spencer; Al Schacher; Ryan Richards; Robert McNeill; Robert Larzalere; William Barlow; Lawrence Arnbrister; David Albritton; Vice-chair Jon Flegel; and Chair Thomas Kyle.

Nay: None.

Motion carried unanimously.

- C. Board action as Rulemaking Advisory Committee then make a recommendation to the Administrator to amend OAR 918-282-0020 limited sign contractor license rules removing the requirement that contractors authorized to make, direct, or control the making of a sign installation be sole proprietors**

Policy Analyst Ian Paik explained once again the process of the board acting as the Rulemaking Advisory Committee (RAC).

The RAC is to assist the division to amend the limited sign contractor license rules. This rulemaking is intended to amend the rule removing the requirement that contractors authorized to make, direct, or control the making of a sign installation be sole proprietors, while simultaneously aligning the rule language structure with the division's other electrical license rules. The goal of RAC is to

discuss the proposed changes as well as the potential fiscal, economic, and racial equity impacts of this rulemaking.

During the January 23, 2025, board meeting, a request was received to amend the language in OAR 918-282-0020 and remove the sole proprietor requirement from the rule. Currently, the rule outlines that a limited sign contractor is authorized to make, direct, supervise, or control the making of a sign installation only if that contractor is a sole proprietor that is also licensed as a limited journeyman, a general supervising, or a general journeyman electrician. During the March 27, 2025, board meeting, the board advised the division to begin this rulemaking process and draft the proposed rule language presented at this rulemaking advisory committee meeting.

The RAC will discuss three topics. The first topic is substantive and addresses the proposed language changes, and the final two topics address the potential fiscal, economic, and racial equity impacts of the proposed rulemaking.

Topic 1: *Should the division amend the limited sign contractor license rules?*

Discussion: The current structure of this rule places limits on a limited sign contractor's authorization to make, direct, supervise, or control the making of a sign installation based on the business organization of the limited sign contractor.

Currently, the rule only authorizes a sign limited sign contractor to make, direct, supervise, or control the making of a sign installation if they are a licensed limited journeyman, a general supervising electrician, or a general journeyman electrician that is also a sole proprietor.

Committee Member William Barlow did not agree with the rules needing to be updated. He said this is not an amendment to the rules but a clarification. The language is not limiting or extending but clarifying that the sole proprietor who is also licensed as a limited journeyman signing electrician or greater does not have to employ an additional individual to meet the requirement. If a company is structured as corporate, then because there is not an individual appointed, the company and the individual is not one in the same, they must employ a full time limited journeyman signing electrician or greater.

Chad Miltenberger, Sign Men, the company who brought the issue before the board for the January 23, 2025, board meeting, said that if the rule is left as it is, it may bring anti-trust issues to the state. He said if there is no change to the ruling, just clarification, it would make his 80-year business non-void.

Topic 2: *What are the potential fiscal and economic impacts of this rulemaking?*

Discussion: With any rulemaking the division is required to make particular note of the potential fiscal and economic impact that might result from the new rules. The division is requesting input from the committee on the nature and extent of

any fiscal or economic impact that may be caused by this rule.

Majority of the committee said that they do not see any.

Topic 3: *What are the potential impacts on racial equity in the state?*

Discussion: With any rulemaking the division is required to make particular note any potential impact on racial equity in the state that might result from the new rules. The division would welcome any input from the committee on the nature and extent of any impact this rule may have on racial equity in Oregon.

Majority of the committee said that they do not see any.

Analyst Paik asked the committee if they wanted to discuss any additional issues that were not previously brought up, or if committee wanted to return to any previous issues that were discussed but where additional discussion may be beneficial.

Committee Member Barlow wanted to return to Topic 1. Following the comment made by the public, Member Barlow is still seeing this rule change as a clarification. All sign companies in the state have proved compliance and have been granted licenses to operate. Member Barlow added that he believes there is no need for a change in ruling.

Chad Miltenberger disagreed with Member Barlow and said that sign companies are being requested to have a signing supervisor licenses to operate. He continued to request a rule change.

Hearing no other comments or discussion, Analyst Paik said that the RAC has concluded its work and it is now time to return to regular board business.

Chair Kyle announced that the board is currently at Agenda Item VII.C. to consider rulemaking to amend the limited sign contractor license rules.

Motion by Member Ken Spencer to approve the division's amendments to the limited sign contractor license rules and forward to the Administrator for rulemaking and subsequent adoption

Roll call vote taken:

Yea: Sara Young; Ken Spencer; Al Schacher; Ryan Richards; Robert McNeill; Robert Larzalere; Lawrence Arnbrister; David Albritton; Vice-chair Jon Flegel; and Chair Thomas Kyle.

Nay: William Barlow.

Motion carried.

D. Board review and approval of the proposed field evaluation process and rules recommending to the Administrator to proceed to rulemaking (*Rules were received as a late submission*)

Before discussion, Chair Kyle gave special thanks to Chuck Mello; Mike Kyle; and Nathan Phillips in regards to the rule drafting process.

Analyst Paik said that the division has been working with industry, field evaluation bodies, and customers in the state to help draft the attached proposed rules over the last year. A RAC was held at the January 23, 2025, meeting. The committee's guidance and feedback were considered by the division as it prepared the new proposed language for the field evaluation body approval process.

John Ciliege, SGS, recommended that in the proposed rule language remove ICC International Accreditation Service (IAS) and insert ICO 17020, which would remove a specific company's name and just list the requirement.

Nathan Phillips said that the language was changed following the testimony from the last meeting and what was used was a nationally recognized accreditation body that *utilizes* NFPA standards *such as* ICC International. Mr. Phillips continued to say that further in the proposed rule it states that the chief or designated representatives reviews and approves or denies all applications.

Carley Faulkner, SGS, said that the proposed rule, in his opinion, suggests that the company listed should be the company used. He suggested removal of the company's name.

Mr. Phillips said that the board should either approve the rules as written or send them back to committee for further work.

Motion by Board Member Al Schacher to table the proposed rule language for the field evaluation body approval process and send back to committee for further work on the language proposed.

Roll call vote taken:

Yea: Sara Young; Ken Spencer; Al Schacher; Ryan Richards; Robert McNeill; Robert Larzalere; William Barlow; Lawrence Arnbrister; David Albritton; Vice-chair Jon Flegel; and Chair Thomas Kyle.

Nay: None.

Motion carried unanimously.

E. Board review and approval of electrical program chief's recommendations regarding new continuing education course and instructor applications

Analyst Paik reported that the electrical program chief reviewed 31 applications from six organizations. The chief recommended 16 course applications, and 13 instructor applications for approval.

One course application and one instructor application was recommended for denial. Details of all the information was included in the attached matrix for this Agenda Item.

Analyst Paik explained that a motion was needed to incorporate the chief's recommendations.

Motion by Member Ryan Richards to approve the electrical program chief's recommendations for approval and denial of course and instructor applications.

Roll call vote taken:

Yea: Sara Young; Ken Spencer; Al Schacher; Ryan Richards; Robert McNeill; Robert Larzalere; William Barlow; Lawrence Arnbrister; David Albritton; Vice-chair Jon Flegel; and Chair Thomas Kyle.

Nay: None.

Motion carried unanimously.

VIII. Announcements

Chair Thomas Kyle said that he was glad to see so many faces at this meeting and thanked members for engaging in constructive conversation during agenda items.

IX. Adjournment

The meeting of the Electrical and Elevator Board was adjourned at 10:47 a.m. by Chair Thomas Kyle.

Draft meeting minutes of March 27, 2025, was respectfully written and submitted by Debi Woods, division boards administrator/coordinator.

State of Oregon

Board memo

Building Codes Division

May 22, 2025

To: The Electrical and Elevator Board

From: Michael Mayorga Hamilton, contested case representative, Licensing Compliance Section

Subject: Approval of a Final Order for OAH Case No. 2024-ABC-06706, BCD Case No. C2024-0030, In the Matter of Winner Electric Construction, Inc.

Action requested:

To review the Proposed Order from the Office of Administrative Hearings (“OAH”) and to issue a Final Order.

Background:

On June 18, 2024, the Electrical and Elevator Board (“Board”) of the Building Codes Division (“Division”) issued a Notice of Proposed Civil Penalties; Notice of Proposed Reinstatement of Previously Suspended Civil Penalties; and Notice of Proposed Disqualification.

The Division alleged the following violations in the Notice: Respondent violated ORS 479.620(1) three times by engaging in the business of electrical contractor without an electrical contractor’s license; Respondent violated ORS 455.450(1) by failing to comply with a Final Order issued by the Board; and Respondent violated ORS 479.550(1) two times by failing to obtain an electrical permit. On August 19, 2024, Respondent acting through its attorney, Terence S. McLaughlin, requested a hearing.

On February 19, 2025, after receiving new evidence, the Board amended its Notice of Proposed Civil Penalties; Notice of Proposed Reinstatement of Previously Suspended Civil Penalties; and Notice of Proposed Disqualification to remove two counts of ORS 479.620(1) and two counts of ORS 455.450(1).

The hearing ultimately took place on March 6, 2025, before Administrative Law Judge (“ALJ”) Alison G. Webster at the OAH. On March 13, 2025, a Proposed Order was issued. *See* attached Exhibit 1. ALJ Webster determined that the Division met its burden of establishing that Respondent violated ORS 479.620(1) and ORS 455.450(1). ALJ Webster also affirmed that the Division proposed reinstatement of previous suspended civil penalties and disqualification was appropriate.

Respondent was given an opportunity to file exceptions within 20 calendar days from the date of service of the Proposed Order. Respondent failed to file a response to the Proposed Order.

Modifications to the Proposed Order:

The Division recommends the Board incorporate the suggested modifications into the language of the Final Order. *See* attached Exhibit 2. These recommended modifications will not alter ALJ Webster's proposed order concerning Respondent's penalties.

The Division also recommends additional modifications in the Proposed Order, including language in the Order section of the Final Order, to provide clarity. These recommended changes are outlined in the drafted Final Order using ~~strikeouts~~ for removed language and **underlining and bold** for proposed new language. *See* attached Exhibit 2.

Options:

After considering the Proposed Order, the Board may:

- Accept the Division's recommended modifications and issue the Order provided in Exhibit 2 as the Final Order.
- Amend the ALJ's Proposed Order, specify what the Board would like to alter in the Proposed Order, and provide direction about the issuance of a Final Order.
- Disapprove the Proposed Order and provide further direction to the Division.

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON
for the
BUILDING CODES DIVISION
OREGON ELECTRICAL AND ELEVATOR BOARD**

IN THE MATTER OF:) **PROPOSED ORDER**
)
WINNER ELECTRIC) OAH Case No. 2024-ABC-06706
CONSTRUCTION, INC.) Agency Case No. C2024-0030
)
)

HISTORY OF THE CASE

On June 18, 2024, the Oregon Electrical and Elevator Board (Board) issued a Notice of Proposed Assessment of Civil Penalties; Notice of Proposed Reinstatement of Previously Suspended Civil Penalties; Notice of Proposed Disqualification; and Notice of Right to a Hearing (Notice) to Winner Electric Construction, Inc. (Winner Electric). On August 19, 2024, Winner Electric requested a hearing on the Notice.

On September 26, 2024, the Building Codes Division (BCD or Division) referred the hearing request to the Office of Administrative Hearings (OAH).¹ The OAH assigned the matter to a Senior Administrative Law Judge to preside at hearing. The Division requested a change of ALJ. On October 16, 2024, the Presiding ALJ granted the Division’s request and reassigned the matter to a different ALJ. On October 17, 2024, counsel for Winner Electric requested a change of ALJ. On October 21, 2024, the Presiding ALJ granted Winner Electric’s request and reassigned the matter to Senior ALJ Alison G. Webster to preside at hearing.

On October 30, 2024, ALJ Webster convened a prehearing conference. Assistant Attorney General (AAG) Kelly Routt represented the Division with agency representative Michael Mayorga-Hamilton also present. Attorney Terence McLaughlin represented Winner Electric and Paul Nelson individually, with Mr. Nelson also present for the conference. During the conference, ALJ Webster consolidated this matter with OAH Case 2024-ABC-06704 (BCD Case C2024-0031). The consolidated hearing was set for March 6, 2025, and, if needed, March 7, 2025, by video conference.

On February 19, 2025, the Board issued an Amended Notice of Proposed Assessment of Civil Penalties; Amended Notice of Proposed Reinstatement of Previously Suspended Civil Penalties; Amended Notice of Proposed Disqualification; and Amended Notice of Right to a Hearing (Amended Notice) to Winner Electric.

¹ On the same date, the Division also referred a second matter related to this case, Paul M. Nelson, BCD Case no. C2024-0031, and requested that the two cases be consolidated for hearing.

ALJ Webster convened the consolidated hearing by telephone on March 6, 2025.² Attorney McLaughlin represented Winner Electric. AAG Rount represented the Division. The following witnesses testified on the Division's behalf: Division employees Dannielle Clark, Kimberly Bowen, Andrea Simmons, Michael Mayorga-Hamilton, and Electrical Program Chief, Brian Crise. Mr. Nelson testified on behalf of Winner Electric. The record closed at the conclusion of the hearing on March 6, 2025.

ISSUES

1. Whether Winner Electric failed to comply with the payment terms of a Consent Order (BCD Case C2023-0007) and, if so:

a. Whether the Board should assess Winner Electric a civil penalty under ORS 455.450(1).

b. Whether the Division, on behalf of the Board, may reinstate the previously suspended civil penalties from that Consent Order.

2. Whether, between March 19, 2024 and November 1, 2024, Winner Electric engaged in the business of an electrical contractor by advertising electrical installations without a valid electrical contractor's license in violation of ORS 479.620 and, if so, whether the Board should assess Winner Electric a civil penalty under ORS 455.450(2).

3. Whether the Board should disqualify Winner Electric from obtaining an Oregon electrical contractor license for a period of up to five years. ORS 455.127(2), (3).

EVIDENTIARY RULINGS

Division Exhibits A1 through A18 were admitted into the record without objection.³ Winner Electric's Exhibit 102 was admitted over the Division's objection. Exhibit 103 was admitted without objection.

FINDINGS OF FACT

1. At all times pertinent to this matter, Winner Electric was registered business with the Oregon Corporation Division, with its principal place of business at 27385 SE Fairmount Drive, Boring, Oregon. Winner Electric's registration lists Paul Nelson as the business' registered agent, president and secretary. (Ex. A1.)

2. In its June 2023 annual report filing with the Oregon Corporation Division, Winner Electric listed the nature of its business as electrical contracting. (Ex. A3.) In its June 2024

² Due to technical difficulties with the Webex video platform, the hearing was converted to a telephone hearing over Winner Electric's objection to the format. *See* OAR 137-003-0045(1) (an agency may, in its discretion, hold a hearing by telephone).

³ Winner Electric withdrew its foundational objections to Exhibits A16 and A17 upon the Division's witnesses' authentication of these documents.

annual report filing with the Oregon Corporation Division, Winner Electric listed the nature of its business as electrical contracting, estimating and consulting. (Ex. A2.)

3. Winner Electric was first licensed by the Oregon Construction Contractors Board (CCB) in 1976. At some point in late 2024 or early 2025, the CCB suspended Winner Electric's CCB license number 14794 for failing to file proof of insurance. (Ex. A4.) Until January 31, 2024, Winner Electric also held an Oregon electrical contractor license, number 34-150C. (Ex. A6.)

4. In 2022 and 2023, the Division, acting on behalf of the Board, opened investigations into Mr. Nelson and Winner Electric for violations of Division statutes and rules. In October 2023, both Winner Electric and Mr. Nelson waived their respective rights to a contested case hearing and entered Consent Orders (BCD Case 2023-0007 and BCD Case 2022-00161, respectively) with the Board acknowledging numerous violations of Division statutes and rules. The Consent Orders became Final Orders as of November 16, 2023. (Exs. A5 and A6.)

5. In the Winner Electric Consent Order, BCD Case C2023-0007, the company acknowledged violating OAR 918-282-0010(1) (failing to continuously employ at least one full-time general supervising electrician), 52 violations of OAR 918-282-0015 (failing to ensure electrical installations were made under the supervision and control of a supervising electrician), and 44 violations of OAR 918-309-0000(1) (providing false information to obtain an electrical permit). The Board assessed a total civil penalty of \$49,000 against Winner Electric for these violations, with the suspension of \$29,000 of the total civil penalty if Winner Electric complied with all other terms of the Consent Order for a period of five years, including payment of the remaining \$20,000 on or before January 31, 2024. (Ex. A6 at 16-19.) Winner Electric acknowledged that if it committed any further violations of the Division's statutes or rules during the five-year period, "the entire civil penalty, including any suspended amount, will become due and payable." (*Id.* at 19.) Winner Electric also acknowledged that the failure to comply with the Consent Order included failing to pay the civil penalty amount of \$20,000 by January 31, 2024. (*Id.*)

6. Pursuant to the terms of the Consent Order, the Board revoked Winner Electric's electrical contractor license, number 34-150C effective January 31, 2024. (Exs. A6 at 19.)

7. Winner Electric failed to pay the \$20,000 civil penalty amount by the January 31, 2024 deadline. (Test. of Clark; Exs. A9, A11, A12.) As of January 29, 2025, the Division had still not received any civil penalty payments from Winner Electric. (Test. of Clark; Ex. A9.)

8. On or about January 2, 2024, Mr. Nelson, in his capacity as the owner/operator of Winner Electric, signed a "Subcontractor Agreement" with Merrill Electric LLC. The parties agreed that, from time to time, Merrill Electric (the "Subcontractor") may provide services to Winner Electric (the "Contractor") and that the terms of the agreement applied whenever Subcontractor provided services to Contractor. (Ex. 102.)

9. After January 31, 2024, Winner Electric maintained an internet website advertising electrical services and products. From at least March 19, 2024, through November 2, 2024,

Winner Electric’s website used the following URL (uniform resource locator) address: paulnelson680.wixsite.com/winner-electric-. (Exs. A16 and A17.)

10. As of March 19, 2024, Winner Electric’s website consisted of three webpages, “Home,” “Services,” and “About.” The “Home” page included Winner Electric’s name and phone number and stated as follows:

WELCOME Winner Electric Corporation Inc is pleased to offer exceptional service at all job sites big and small. We look forward to exceeding your expectations by providing efficient work at affordable prices.

(Ex. A16 at 1.)

11. At some point between March 19, 2024, and November 2, 2024, Winner Electric updated its “Home” page to state:

WELCOME Winner Electric a Division of Merrill Electric is pleased to offer exceptional service at all job sites big and small. We look forward to exceeding your expectations by providing efficient work at affordable prices.

(Ex. A17 at 1.)

12. The Winner Electric website “Home” page identified three categories of services offered by Winner Electric – Residential, Commercial, and Generators and Panels – as follows:

RESIDENTIAL	COMMERCIAL	GENERATORS AND PANELS
Remodels, Whole House Rewire, Knob and Tube Replacement, Exterior and Emergency Lighting, Fixture Replacement.	Restaurant & Bar, Spas, Retail Space, Tenant Improvements, Electrical Maintenance, Specialty Lighting, Exterior Lighting.	Electrical Service and Panel Upgrades, Generator Installation, EV Car Chargers, and Power Outages.

13. During the period of March 19, 2024, to May 2, 2024, the “Services” page on Winner Electric’s website included the following information:

Lighting	Panels & Services	Backup Generator
Recessed Lighting, Rope Lighting, Change out fixtures, Zone Lighting, Landscape & Exterior Lighting, Emergency Lighting, Security Lighting	Change Out Old Panels, Upgrade Over Head and Underground Services, Replace & Upgrade Circuits & Fuses, Replacement of Old Dangerous Panels	Whether you have planned to purchase a Generac® portable generator for the office or want to install a standby Generac® whole house generator, come to us with full assurance that we will: <ul style="list-style-type: none">• Provide authentic products• Offer generator models for diverse budgets

(Ex. A16 at 2 – 40.)

14. As of November 2, 2024, the “About” page on Winner Electric’s website stated, in

part as follows:

Winner Electric a Division of Merrill Electric is a family owned business. To us, “family includes you. * * * Longevity of business means treating your clients the way you’d want to be treated, and thats [*sic*] what we do. With 44 years of business we’ve got the experience to provide you with superior service at affordable prices.

(Ex. A17 at 2.)

15. After January 31, 2024, when a potential customer contacted Winner Electric to perform electrical installation services, Mr. Nelson, acting on Winner Electric’s behalf, would take the customer’s information and prepare a written estimate for the total cost of the service. The written estimate included Winner Electric’s name, phone number, and CCB license number. The estimate also identified Winner Electric as “a Division of Merrill Electric.” (*See* Ex. 103.) If the customer contracted for electrical installation services, then Mr. Nelson referred the job to Merrill Electric, who – pursuant to the Subcontractor Agreement – sent a licensed electrician to do the work. The customer paid Winner Electric and then Mr. Nelson paid Merrill Electric. (Test. of Nelson.)

16. In early 2025, Mr. Nelson took down Winner Electric’s website and stopped advertising Winner Electric’s services. (Test. of Nelson.)

17. In accordance with OAR 918-001-0036(6), the Division developed the Advisory Board Civil Penalty Matrix (Penalty Matrix) to assist the Board in imposing penalties for violations of the electrical safety laws and rules. The Penalty Matrix provides for civil penalties based upon the type of violation and “upon the number of violations committed within five years of the date of the present violation.” (Ex. A18 at 1.) For companies, where there is a pattern of violations, the Penalty Matrix provides for a civil penalty of \$4000 for performing unlicensed activities and a civil penalty of \$4500 for failing to comply with a directive. (*Id.* at 2.) The Penalty Matrix further provides:

The entire penalty is imposed in all cases. * * *. A stay of some portion of a penalty is within the sole discretion of the board or the division acting on the board’s behalf for purposes of settling cases prior to hearing.

(*Id.* at 1.)

CONCLUSIONS OF LAW

1. Winner Electric failed to comply with the payment terms of a Consent Order (BCD Case C2023-0007). The Board should reinstate the previously suspended civil penalties from that Consent Order and assess an additional civil penalty for the violation of ORS 455.450(1).

2. Between March 19, 2024 and November 1, 2024, Winner Electric engaged in the business of an electrical contractor by advertising electrical installations without a valid electrical

contractor's license in violation of ORS 479.620. For this violation, the Board should assess a civil penalty.

3. The Board should also disqualify Winner Electric from obtaining an Oregon electrical contractor license for a period of five years. ORS 455.127(2), (3).

OPINION

The Division bears the burden to establish by a preponderance of the evidence that the alleged conduct and violations occurred and that the proposed sanctions are warranted. *See* ORS 183.450(2) (“The burden of presenting evidence to support a fact or position in a contested case rests on the proponent of the fact or position”); *Harris v. SAIF*, 292 Or 683, 690 (1982) (general rule regarding allocation of burden of proof is that the burden is on the proponent of a fact or position); *Dixon v. Board of Nursing*, 291 Or App 207, 213 (2018) (preponderance standard of proof generally applies in agency proceedings). Proof by a preponderance of the evidence means that the fact finder is persuaded that the facts asserted are more likely than not true. *Riley Hill General Contractor v. Tandy Corp.*, 303 Or 390, 402 (1987).

1. Violation of a Final Order

In the Amended Notice, the Division contends that Winner Electric violated the terms of the Consent Order in BCD Case C2023-0007 by failing to pay the \$20,000 civil penalty.

ORS 455.450 provides, in pertinent part:

A person may not:

(1) Violate, or procure or assist in the violation of, any final order of the Director of the Department of Consumer and Business Services, an advisory board, a state administrative officer or any local appeals board, building official or inspector, concerning the application of the state building code in a particular case or concerning a license, certificate, registration or other authorization.

As found above, the Consent Order in BCD Case C2023-0007 became final as of November 16, 2023. Pursuant to the terms of that final order, Winner Electric was required to pay a civil penalty of \$20,000 on or before January 31, 2024. Winner Electric concedes that it has failed to pay any portion of the civil penalty amount. Winner Electric's failure to pay this \$20,000 civil penalty constitutes a violation of the final Consent Order and a violation of ORS 455.450(1).

Civil Penalty for Violation of ORS 455.450(1)

The Division has established that Winner Electric violated ORS 455.450(1) by failing to comply with the terms of a final order. ORS 455.895(1)(b) authorizes the Board to “impose a civil penalty against a person as provided under ORS 479.995.” ORS 479.995 provides:

The Electrical and Elevator Board may impose a civil penalty for a violation of ORS 479.510 to 479.945 or rules adopted for the administration or enforcement of ORS 479.510 to 479.945 and this section. The board shall impose a civil penalty authorized by this section as provided in ORS 455.895.

OAR 918-001-0036 sets out the guidelines for civil penalties and provides, in part:

(1) Scope and Authority. This rule sets guidelines for assessing a civil penalty under ORS 446.995 & 455.895.

(2) Definitions. For the purposes of this rule:

* * * * *

(b) A “directive” includes, but is not limited to, a notice or warning, citation, order, consent decree or settlement agreement, rule, law, code requirement, or agency interpretation.

(c) “Pattern of violation” means two or more prior violations during a five-year period of any provision of ORS Chapter 446, 447, 455, 460, 479, 480, or 693, or the state building code as defined in 455.010, whether or not a penalty was assessed. A pattern of violation is calculated within a five-year period from the date of the latest violation.

* * * * *

(4) Civil penalties may be assessed by a board, the Director, or a board’s designee acting as agent for a board. A board or the Director may take into account any appropriate factors, including previous directives, in determining the penalty amount or conditions within an order. The statutorily defined maximum penalty may only be assessed upon a finding of a pattern of violation.

* * * * *

(6) The Director may, subject to approval of a board, develop a penalty matrix for the board’s use to promote equity and uniformity in proposing the amount and terms of civil penalties and conditions under which the penalties may be modified based on the circumstances in individual cases.

As set out above, the Division’s Civil Penalty Matrix, Exhibit A18, accounts for the nature of the violation and the number of violations committed within five years of the date of the violation(s) at issue. As pertinent here, where the violation is for the failure to comply with a directive and there is a pattern of violations within a five-year period, the Board assesses a civil penalty of \$4,500. *Id.*

Because Winner Electric’s violation of ORS 455.450(1) occurred within five years of the violations adjudicated in BCD Case C2023-0007, this violation is among a pattern of violations within the meaning of OAR 918-001-0036(2)(c). This entitles the Board and/or Division to assess the statutorily authorized maximum penalty. Accordingly, in this instance, in accordance with the Civil Penalty Matrix, Winner Electric is subject to an increased civil penalty of \$4,500 for its failure to comply with the terms of the Consent Order.

Reinstatement of the \$29,000 Civil Penalty

Additionally, as set out in the Consent Order, Winner Electric’s failure to comply with the terms of the Consent Order (or any other violation of the Division’s statutes and rules) within five years after the Consent Order became final on November 16, 2023, results in the entire \$49,000 civil penalty, including the previously suspended \$29,000, to become due and payable.

Accordingly, Winner Electric’s violation of the Consent Order and violation of ORS 455.450(1) also results in the reinstatement of the previously suspended civil penalty of \$29,000.

2. Engaging in Electrical Contractor Business Without a Valid Electrical Contractor’s License

In the Amended Notice, the Division also alleges that, from at least March 19, 2024 through at least November 1, 2024, Winner Electric violated ORS 479.620(1) by engaging in the business of an electrical contractor by advertising electrical installations without having a valid Oregon electrical contractor’s license.

ORS 479.620 addresses the licensing requirement and prohibits electrical installations by unlicensed persons. The statute provides, in pertinent part:

Subject to ORS 479.540,⁴ a person may not:

(1) Without an electrical contractor’s license, engage in the business of making electrical installations, *advertise as or otherwise purport to be licensed to make electrical installations or purport to be acting as a business that makes electrical installations.*

Emphasis added. “Electrical installations” are defined in ORS 479.530(10) as follows:

“Electrical installations” means the construction or installation of electrical wiring and the permanent attachment or installation of electrical products in or on any structure that is not itself an electrical product. “Electrical installation” also means the maintenance or repair of installed electrical wiring and permanently attached electrical products. “Electrical installation” does not include an oil module.

⁴ ORS 479.540 sets out exemptions to the requirement to obtain a license to make installation, none of which are applicable in this case.

“Electrical product” is defined in ORS 479.530(11) to mean “any electrical equipment, material, device or apparatus that, except as provided in ORS 479.540, requires a license or permit to install and either conveys or is operated by electrical current.” “Equipment” is defined in ORS 479.530(12) as “any material, fittings, devices, appliances, fixtures, apparatus or the like that are used as part of or in connection with an electrical installation.”

Additionally, OAR 918-030-0010(8) defines the phrase “engaging in the business” as follows:

For purposes of ORS 447.040, 479.620, 480.630 and any other license regulated by ORS chapter 455, “engaging in the business” means *to advertise or solicit, contract or agree to perform, or to perform, work for which a license or permit is required under Oregon law*, including but not limited to a single instance.

Emphasis added.

There is no dispute that light fixtures, electrical panels, electrical circuits, electrical wiring, and backup generators are “electrical products” under ORS 479.530(11). Similarly, there is no dispute that the installation, maintenance, or repair of light fixtures, electrical panels, electrical circuits, electrical wiring, and backup generators constitutes “electrical installations” under ORS 479.540(10). At issue in this case is whether, by maintaining its internet website offering lighting, electrical panel, and standby generator services after January 31, 2024, Winner Electric advertised or otherwise purported to engage in a business that makes electrical installations in violation of ORS 479.620(1).

At hearing, Winner Electric argued that its website does not specifically reference the “installation” of electrical products and equipment and therefore does not run afoul of ORS 479.620(1). This contention is not persuasive. The website indicates that Winner Electric offers residential and commercial services, including “whole house rewire,” changing and replacing lighting fixtures, and changing and replacing electrical panels.⁵ Any reasonable and objective person viewing and reading Winner Electric’s website would construe Winner Electric as a business that does electrical installations as defined in ORS 479.530(10)⁶ and view the website as an advertisement or solicitation for the same.

Winner Electric also argued that, because the website was updated at some point in 2024 to reference Merritt Electric and because the company has a subcontractor agreement with Merritt Electric, Winner Electric is not purporting to engage in the business of making electrical installations. This contention also lacks merit. The updated website describes Winner Electric as “a Division of Merrill Electric.”⁷ When a business describes itself as a “division” of another business, that generally means the former business is a part of, or segment of, the latter business, with the latter serving as the parent company. Thus, as written, the updated website indicates

⁵ See, e.g., Ex. A16 at 40, Ex. A17 at 1.

⁶ ORS 479.530(10) states, “‘Electrical installation’ also means the maintenance or repair of installed electrical wiring.”

⁷ Ex. A17 at 1, 2.

that Winner Electric is a part of Merrill Electric and suggests that Merrill Electric owns Winner Electric. The Winner Electric website fails to accurately portray the contractual relationship between Winner Electric and Merrill Electric when it describes Winner Electric as a division of Merrill Electric. There is no mention of the fact that Winner Electric and Merrill Electric are separate companies operating under separate ownership. A reasonable and objective person would take from this description that Winner Electric would be performing the electrical installation work advertised on the website.

Consequently, the evidence establishes that, during the period of March 19, 2024 through at least November 2, 2024, Winner Electric's website advertised electrical installations and portrayed Winner Electric as a business that was licensed to make electrical installations, when in fact Winner Electric was not licensed to do so. The Division has proven that Winner Electric violated ORS 479.620(1) by maintaining its internet website advertising electrical installation services after its electrical contractor license was revoked.

Civil Penalty for the Violation of ORS 479.620(1)

As discussed previously herein, the Board is authorized under ORS 455.895(1)(b) and ORS 479.995 to impose a civil penalty for Winner Electric's violation of ORS 479.620(1). And, where there is a pattern of violations (two or more prior violations during a five-year period), the Board is authorized to increase the civil penalty in accordance with the provisions of OAR 918-001-0036 and the Civil Penalty Matrix.

Because Winner Electric has a pattern of violations during a five-year period, the company is subject to a civil penalty of \$4,000 for violating ORS 479.620(1) as provided in the Civil Penalty Matrix. *See Exhibit A18 at 2.*

3. *Disqualification from Licensure*

Finally, based on Winner Electric's violations, the Division seeks to disqualify Winner Electric from obtaining an Oregon electrical contractor license for a period of five years.

ORS 455.127 provides:

(1) As used in this section, "person" includes individuals, corporations, associations, firms, partnerships, limited liability companies, joint stock companies, public agencies and an owner or holder of a direct or indirect interest in a corporation, association, firm, partnership, limited liability company or joint stock company.

(2) The Director of the Department of Consumer and Business Services, the Department of Consumer and Business Services or an appropriate advisory board may disqualify a person from obtaining or renewing a license, registration, certificate or certification if the person:

(a) Is or has been subject to civil penalties, revocation, cancellation or suspension

of a license, registration, certificate or certification or other sanction by the director, department or an advisory board; or

(b) Is or has been directly involved in an act for which the director, department or an advisory board has levied civil penalties, revoked, canceled or suspended a license, registration, certificate or certification or imposed other sanction while the person served as a principal, director, officer, owner, majority shareholder, member or manager of a limited liability company or in another capacity with direct or indirect control over another business.

(3) A disqualification under subsection (2) of this section shall be for a period determined by the director, department or appropriate advisory board by rule, not to exceed five years. If a person applies for reinstatement of a revoked license, registration, certificate or certification after the period of disqualification, the person must meet the qualifications for initial issuance of the license, registration, certificate or certification.

See also OAR 918-001-0034(1).

Because Winner Electric is subject to civil penalties in this matter and was previously subject to civil penalties and license revocation in BCD Case C2023-0007, the Board is entitled to disqualify Winner Electric from obtaining another Oregon electrical contractor license for a period of five years pursuant to ORS 455.127(2) and (3) and OAR 918-001-0034(1) upon entry of a final order in this case.

ORDER

I propose the Building Codes Division issue the following order:

For the violation of ORS 455.450(1), Winner Electric is liable for a civil penalty of \$4,500.

In addition, Winner Electric's suspended civil penalty of \$29,000 from the Consent Order in BCD Case C2023-0007 is reinstated.

For the violation of ORS 479.620(1), Winner Electric is liable for a civil penalty of \$4,000.

Winner Electric is also disqualified from obtaining an Oregon electrical contractor license for a period of five years upon the date of entry of a final order in this matter.

Alison G. Webster

Senior Administrative Law Judge
Office of Administrative Hearings

APPEAL PROCEDURE

This is the Administrative Law Judge's Proposed Order. You have the right to file written exceptions and argument to be considered per OAR 137-003-0650. Your exceptions and argument must be received within 20 calendar days after the service date of this Proposed Order. Send them to:

Building Codes Division
Manager, Andrea Simmons
PO Box 14470
Salem, OR 97309-0404

SERVICEMEMBERS' CIVIL RELIEF ACT

Unless otherwise stated in this order, the Office of Administrative Hearings (OAH) has no reason to believe that a party to this proceeding is subject to the Servicemembers' Civil Relief Act (SCRA). If a party to this proceeding is a servicemember who did not appear for the hearing, within the servicemember's period of service, or 90 days after their termination of service, that party should immediately contact the agency to address any rights they may have under the SCRA.

CERTIFICATE OF MAILING

On March 13, 2025, I mailed the foregoing PROPOSED ORDER issued on this date in OAH Case No. 2024-ABC-06706.

By: Electronic and Certified Mail

Terence S McLaughlin
PO Box 672
Carlton OR 97111
Email: tsm123@comcast.net

By: Electronic Mail

Paul M. Nelson

[REDACTED]

Email: [REDACTED]

Winner Electric Construction, Inc.
27385 SE Fairmont DR
Boring OR 97009
Email: tsm123@comcast.net

Michael Mayorga-Hamilton
Agency Representative
Building Codes Division
PO Box 14470
Salem OR 97309
Email: Michael.mayorga-hamilton@dcbs.oregon.gov

Kelly K. Routt
Assistant Attorney General
Department of Justice
1162 Court St NE
Salem OR 97301
Email: Kelly.K.Routt@doj.oregon.gov

Anesia N Valihov
Hearing Coordinator

BEFORE THE ELECTRICAL AND ELEVATOR BOARD OF THE STATE OF OREGON

**~~BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS-
STATE OF OREGON~~**

**for the
BUILDING CODES DIVISION
~~OREGON ELECTRICAL AND ELEVATOR BOARD~~**

IN THE MATTER OF:) **FINAL PROPOSED ORDER**
)
WINNER ELECTRIC) OAH Case No. 2024-ABC-06706
CONSTRUCTION, INC.) Agency Case No. C2024-0030
)
)

HISTORY OF THE CASE

On June 18, 2024, the Oregon Electrical and Elevator Board (Board) issued a Notice of Proposed Assessment of Civil Penalties; Notice of Proposed Reinstatement of Previously Suspended Civil Penalties; Notice of Proposed Disqualification; and Notice of Right to a Hearing (Notice) to Winner Electric Construction, Inc. (Winner Electric). On August 19, 2024, Winner Electric requested a hearing on the Notice.

On September 26, 2024, the Building Codes Division (BCD or Division) referred the hearing request to the Office of Administrative Hearings (OAH).¹ The OAH assigned the matter to a Senior Administrative Law Judge to preside at hearing. The Division requested a change of ALJ. On October 16, 2024, the Presiding ALJ granted the Division’s request and reassigned the matter to a different ALJ. On October 17, 2024, counsel for Winner Electric requested a change of ALJ. On October 21, 2024, the Presiding ALJ granted Winner Electric’s request and reassigned the matter to Senior ALJ Alison G. Webster to preside at hearing.

On October 30, 2024, ALJ Webster convened a prehearing conference. Assistant Attorney General (AAG) Kelly Routt represented the Division with agency representative Michael Mayorga-Hamilton also present. Attorney Terence McLaughlin represented Winner Electric and Paul Nelson individually, with Mr. Nelson also present for the conference. During the conference, ALJ Webster consolidated this matter with OAH Case 2024-ABC-06704 (BCD Case C2024-0031). The consolidated hearing was set for March 6, 2025, and, if needed, March 7, 2025, by video conference.

On February 19, 2025, the Board issued an Amended Notice of Proposed Assessment of Civil Penalties; Amended Notice of Proposed Reinstatement of Previously Suspended Civil Penalties; Amended Notice of Proposed Disqualification; and Amended Notice of Right to a Hearing (Amended Notice) to Winner Electric.

¹ On the same date, the Division also referred a second matter related to this case, Paul M. Nelson, BCD Case no. C2024-0031, and requested that the two cases be consolidated for hearing.

ALJ Webster convened the consolidated hearing by telephone on March 6, 2025.² Attorney McLaughlin represented Winner Electric. AAG Rouff represented the Division. The following witnesses testified on the Division's behalf: Division employees Dannielle Clark, Kimberly Bowen, Andrea Simmons, Michael Mayorga-Hamilton, and Electrical Program Chief, Brian Crise. Mr. Nelson testified on behalf of Winner Electric. The record closed at the conclusion of the hearing on March 6, 2025.

ISSUES

1. Whether Winner Electric failed to comply with the payment terms of a Consent Order (BCD Case C2023-0007) and, if so:
 - a. Whether the Board should assess Winner Electric a civil penalty under ORS 455.450(1).
 - b. Whether the Division, on behalf of the Board, may reinstate the previously suspended civil penalties from that Consent Order.
2. Whether, between March 19, 2024 and November 1, 2024, Winner Electric engaged in the business of an electrical contractor by advertising electrical installations without a valid electrical contractor's license in violation of ORS 479.620 and, if so, whether the Board should assess Winner Electric a civil penalty under ORS 455.450(2).
3. Whether the Board should disqualify Winner Electric from obtaining an Oregon electrical contractor license for a period of up to five years. ORS 455.127(2), (3).

EVIDENTIARY RULINGS

Division Exhibits A1 through A18 were admitted into the record without objection.³ Winner Electric's Exhibit 102 was admitted over the Division's objection. Exhibit 103 was admitted without objection.

FINDINGS OF FACT

1. At all times pertinent to this matter, Winner Electric was registered business with the Oregon Corporation Division, with its principal place of business at 27385 SE Fairmount Drive, Boring, Oregon. Winner Electric's registration lists Paul Nelson as the business' registered agent, president and secretary. (Ex. A1.)
2. In its June 2023 annual report filing with the Oregon Corporation Division, Winner Electric listed the nature of its business as electrical contracting. (Ex. A3.) In its June 2024

² Due to technical difficulties with the Webex video platform, the hearing was converted to a telephone hearing over Winner Electric's objection to the format. *See* OAR 137-003-0045(1) (an agency may, in its discretion, hold a hearing by telephone).

³ Winner Electric withdrew its foundational objections to Exhibits A16 and A17 upon the Division's witnesses' authentication of these documents.

annual report filing with the Oregon Corporation Division, Winner Electric listed the nature of its business as electrical contracting, estimating and consulting. (Ex. A2.)

3. Winner Electric was first licensed by the Oregon Construction Contractors Board (CCB) in 1976. At some point in late 2024 or early 2025, the CCB suspended Winner Electric's CCB license number 14794 for failing to file proof of insurance. (Ex. A4.) Until January 31, 2024, Winner Electric also held an Oregon electrical contractor license, number 34-150C. (Ex. A6.)

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5. In the Winner Electric Consent Order, BCD Case C2023-0007, the company acknowledged violating OAR 918-282-0010(1) (failing to continuously employ at least one full-time general supervising electrician), 52 violations of OAR 918-282-0015 (failing to ensure electrical installations were made under the supervision and control of a supervising electrician), and 44 violations of OAR 918-309-0000(1) (providing false information to obtain an electrical permit). The Board assessed a total civil penalty of \$49,000 against Winner Electric for these violations, with the suspension of \$29,000 of the total civil penalty if Winner Electric complied with all other terms of the Consent Order for a period of five years, including payment of the remaining \$20,000 on or before January 31, 2024. (Ex. A6 at 16-19.) Winner Electric acknowledged that if it committed any further violations of the Division's statutes or rules during the five-year period, "the entire civil penalty, including any suspended amount, will become due and payable." (*Id.* at 19.) Winner Electric also acknowledged that the failure to comply with the Consent Order included failing to pay the civil penalty amount of \$20,000 by January 31, 2024. (*Id.*)

6. Pursuant to the terms of the Consent Order, the Board revoked Winner Electric's electrical contractor license, number 34-150C effective January 31, 2024. (Exs. A6 at 19.)

7. Winner Electric failed to pay the \$20,000 civil penalty amount by the January 31, 2024 deadline. (Test. of Clark; Exs. A9, A11, A12.) As of January 29, 2025, the Division had still not received any civil penalty payments from Winner Electric. (Test. of Clark; Ex. A9.)

8. On or about January 2, 2024, Mr. Nelson, in his capacity as the owner/operator of Winner Electric, signed a "Subcontractor Agreement" with Merrill Electric LLC. The parties agreed that, from time to time, Merrill Electric (the "Subcontractor") may provide services to Winner Electric (the "Contractor") and that the terms of the agreement applied whenever Subcontractor provided services to Contractor. (Ex. 102.)

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Winner Electric’s website used the following URL (uniform resource locator) address: paulnelson680.wixsite.com/winner-electric-. (Exs. A16 and A17.)

10. As of March 19, 2024, Winner Electric’s website consisted of three webpages, “Home,” “Services,” and “About.” The “Home” page included Winner Electric’s name and phone number and stated as follows:

WELCOME Winner Electric Corporation Inc is pleased to offer exceptional service at all job sites big and small. We look forward to exceeding your expectations by providing efficient work at affordable prices.

(Ex. A16 at 1.)

11. At some point between March 19, 2024, and November 2, 2024, Winner Electric updated its “Home” page to state:

WELCOME Winner Electric a Division of Merrill Electric is pleased to offer exceptional service at all job sites big and small. We look forward to exceeding your expectations by providing efficient work at affordable prices.

(Ex. A17 at 1.)

12. The Winner Electric website “Home” page identified three categories of services offered by Winner Electric – Residential, Commercial, and Generators and Panels – as follows:

RESIDENTIAL	COMMERCIAL	GENERATORS AND PANELS
Remodels, Whole House Rewire, Knob and Tube Replacement, Exterior and Emergency Lighting, Fixture Replacement.	Restaurant & Bar, Spas, Retail Space, Tenant Improvements, Electrical Maintenance, Specialty Lighting, Exterior Lighting.	Electrical Service and Panel Upgrades, Generator Installation, EV Car Chargers, and Power Outages.

13. During the period of March 19, 2024, to May 2, 2024, the “Services” page on Winner Electric’s website included the following information:

Lighting	Panels & Services	Backup Generator
Recessed Lighting, Rope Lighting, Change out fixtures, Zone Lighting, Landscape & Exterior Lighting, Emergency Lighting, Security Lighting	Change Out Old Panels, Upgrade Over Head and Underground Services, Replace & Upgrade Circuits & Fuses, Replacement of Old Dangerous Panels	Whether you have planned to purchase a Generac® portable generator for the office or want to install a standby Generac® whole house generator, come to us with full assurance that we will: <ul style="list-style-type: none">• Provide authentic products• Offer generator models for diverse budgets

(Ex. A16 at 2 – 40.)

14. As of November 2, 2024, the “About” page on Winner Electric’s website stated, in

part as follows:

Winner Electric a Division of Merrill Electric is a family owned business. To us, “family includes you. * * * Longevity of business means treating your clients the way you’d want to be treated, and thats [*sic*] what we do. With 44 years of business we’ve got the experience to provide you with superior service at affordable prices.

(Ex. A17 at 2.)

15. After January 31, 2024, when a potential customer contacted Winner Electric to perform electrical installation services, Mr. Nelson, acting on Winner Electric’s behalf, would take the customer’s information and prepare a written estimate for the total cost of the service. The written estimate included Winner Electric’s name, phone number, and CCB license number. The estimate also identified Winner Electric as “a Division of Merrill Electric.” (*See* Ex. 103.) If the customer contracted for electrical installation services, then Mr. Nelson referred the job to Merrill Electric, who – pursuant to the Subcontractor Agreement – sent a licensed electrician to do the work. The customer paid Winner Electric and then Mr. Nelson paid Merrill Electric. (Test. of Nelson.)

16. In early 2025, Mr. Nelson took down Winner Electric’s website and stopped advertising Winner Electric’s services. (Test. of Nelson.)

17. In accordance with OAR 918-001-0036(6), the Division developed the Advisory Board Civil Penalty Matrix (Penalty Matrix) to assist the Board in imposing penalties for violations of the electrical safety laws and rules. The Penalty Matrix provides for civil penalties based upon the type of violation and “upon the number of violations committed within five years of the date of the present violation.” (Ex. A18 at 1.) For companies, where there is a pattern of violations, the Penalty Matrix provides for a civil penalty of \$4000 for performing unlicensed activities and a civil penalty of \$4500 for failing to comply with a directive. (*Id.* at 2.) The Penalty Matrix further provides:

The entire penalty is imposed in all cases. * * *. A stay of some portion of a penalty is within the sole discretion of the board or the division acting on the board’s behalf for purposes of settling cases prior to hearing.

(*Id.* at 1.)

CONCLUSIONS OF LAW

1. Winner Electric failed to comply with the payment terms of a Consent Order (BCD Case C2023-0007). The Board should reinstate the previously suspended civil penalties from that Consent Order and assess an additional civil penalty for the violation of ORS 455.450(1).

2. Between March 19, 2024 and November 1, 2024, Winner Electric engaged in the business of an electrical contractor by advertising electrical installations without a valid electrical

contractor’s license in violation of ORS 479.620. For this violation, the Board should assess a civil penalty.

3. The Board should also disqualify Winner Electric from obtaining an Oregon electrical contractor license for a period of five years. ORS 455.127(2), (3).

OPINION

The Division bears the burden to establish by a preponderance of the evidence that the alleged conduct and violations occurred and that the proposed sanctions are warranted. *See* ORS 183.450(2) (“The burden of presenting evidence to support a fact or position in a contested case rests on the proponent of the fact or position”); *Harris v. SAIF*, 292 Or 683, 690 (1982) (general rule regarding allocation of burden of proof is that the burden is on the proponent of a fact or position); *Dixon v. Board of Nursing*, 291 Or App 207, 213 (2018) (preponderance standard of proof generally applies in agency proceedings). Proof by a preponderance of the evidence means that the fact finder is persuaded that the facts asserted are more likely than not true. *Riley Hill General Contractor v. Tandy Corp.*, 303 Or 390, 402 (1987).

1. Violation of a Final Order

In the Amended Notice, the Division contends that Winner Electric violated the terms of the Consent Order in BCD Case C2023-0007 by failing to pay the \$20,000 civil penalty.

ORS 455.450 provides, in pertinent part:

A person may not:

(1) Violate, or procure or assist in the violation of, any final order of the Director of the Department of Consumer and Business Services, an advisory board, a state administrative officer or any local appeals board, building official or inspector, concerning the application of the state building code in a particular case or concerning a license, certificate, registration or other authorization.

As found above, the Consent Order in BCD Case C2023-0007 became final as of November 16, 2023. Pursuant to the terms of that final order, Winner Electric was required to pay a civil penalty of \$20,000 on or before January 31, 2024. Winner Electric concedes that it has failed to pay any portion of the civil penalty amount. Winner Electric’s failure to pay this \$20,000 civil penalty constitutes a violation of the final Consent Order and a violation of ORS 455.450(1).

Civil Penalty for Violation of ORS 455.450(1)

The Division has established that Winner Electric violated ORS 455.450(1) by failing to comply with the terms of a final order. ORS 455.895(1)(b) authorizes the Board to “impose a civil penalty against a person as provided under ORS 479.995.” ORS 479.995 provides:

The Electrical and Elevator Board may impose a civil penalty for a violation of ORS 479.510 to 479.945 or rules adopted for the administration or enforcement of ORS 479.510 to 479.945 and this section. The board shall impose a civil penalty authorized by this section as provided in ORS 455.895.

OAR 918-001-0036 sets out the guidelines for civil penalties and provides, in part:

(1) Scope and Authority. This rule sets guidelines for assessing a civil penalty under ORS 446.995 & 455.895.

(2) Definitions. For the purposes of this rule:

* * * * *

(b) A “directive” includes, but is not limited to, a notice or warning, citation, order, consent decree or settlement agreement, rule, law, code requirement, or agency interpretation.

(c) “Pattern of violation” means two or more prior violations during a five-year period of any provision of ORS Chapter 446, 447, 455, 460, 479, 480, or 693, or the state building code as defined in 455.010, whether or not a penalty was assessed. A pattern of violation is calculated within a five-year period from the date of the latest violation.

* * * * *

(4) Civil penalties may be assessed by a board, the Director, or a board’s designee acting as agent for a board. A board or the Director may take into account any appropriate factors, including previous directives, in determining the penalty amount or conditions within an order. The statutorily defined maximum penalty may only be assessed upon a finding of a pattern of violation.

* * * * *

(6) The Director may, subject to approval of a board, develop a penalty matrix for the board’s use to promote equity and uniformity in proposing the amount and terms of civil penalties and conditions under which the penalties may be modified based on the circumstances in individual cases.

As set out above, the Division’s Civil Penalty Matrix, Exhibit A18, accounts for the nature of the violation and the number of violations committed within five years of the date of the violation(s) at issue. As pertinent here, where the violation is for the failure to comply with a directive and there is a pattern of violations within a five-year period, the Board assesses a civil penalty of \$4,500. *Id.*

Because Winner Electric’s violation of ORS 455.450(1) occurred within five years of the violations adjudicated in BCD Case C2023-0007, this violation is among a pattern of violations within the meaning of OAR 918-001-0036(2)(c). This entitles the Board and/or Division to assess the statutorily authorized maximum penalty. Accordingly, in this instance, in accordance with the Civil Penalty Matrix, Winner Electric is subject to an increased civil penalty of \$4,500 for its failure to comply with the terms of the Consent Order.

Reinstatement of the \$29,000 Civil Penalty

Additionally, as set out in the Consent Order, Winner Electric’s failure to comply with the terms of the Consent Order (or any other violation of the Division’s statutes and rules) within five years after the Consent Order became final on November 16, 2023, results in the entire \$49,000 civil penalty, including the previously suspended \$29,000, to become due and payable.

Accordingly, Winner Electric’s violation of the Consent Order and violation of ORS 455.450(1) also results in the reinstatement of the previously suspended civil penalty of \$29,000.

2. Engaging in Electrical Contractor Business Without a Valid Electrical Contractor’s License

In the Amended Notice, the Division also alleges that, from at least March 19, 2024 through at least November 1, 2024, Winner Electric violated ORS 479.620(1) by engaging in the business of an electrical contractor by advertising electrical installations without having a valid Oregon electrical contractor’s license.

ORS 479.620 addresses the licensing requirement and prohibits electrical installations by unlicensed persons. The statute provides, in pertinent part:

Subject to ORS 479.540,⁴ a person may not:

(1) Without an electrical contractor’s license, engage in the business of making electrical installations, *advertise as or otherwise purport to be licensed to make electrical installations or purport to be acting as a business that makes electrical installations.*

Emphasis added. “Electrical installations” are defined in ORS 479.530(10) as follows:

“Electrical installations” means the construction or installation of electrical wiring and the permanent attachment or installation of electrical products in or on any structure that is not itself an electrical product. “Electrical installation” also means the maintenance or repair of installed electrical wiring and permanently attached electrical products. “Electrical installation” does not include an oil module.

⁴ ORS 479.540 sets out exemptions to the requirement to obtain a license to make installation, none of which are applicable in this case.

“Electrical product” is defined in ORS 479.530(11) to mean “any electrical equipment, material, device or apparatus that, except as provided in ORS 479.540, requires a license or permit to install and either conveys or is operated by electrical current.” “Equipment” is defined in ORS 479.530(12) as “any material, fittings, devices, appliances, fixtures, apparatus or the like that are used as part of or in connection with an electrical installation.”

Additionally, OAR 918-030-0010(8) defines the phrase “engaging in the business” as follows:

For purposes of ORS 447.040, 479.620, 480.630 and any other license regulated by ORS chapter 455, “engaging in the business” means *to advertise or solicit, contract or agree to perform, or to perform, work for which a license or permit is required under Oregon law, including but not limited to a single instance.*

Emphasis added.

There is no dispute that light fixtures, electrical panels, electrical circuits, electrical wiring, and backup generators are “electrical products” under ORS 479.530(11). Similarly, there is no dispute that the installation, maintenance, or repair of light fixtures, electrical panels, electrical circuits, electrical wiring, and backup generators constitutes “electrical installations” under ORS 479.540(10). At issue in this case is whether, by maintaining its internet website offering lighting, electrical panel, and standby generator services after January 31, 2024, Winner Electric advertised or otherwise purported to engage in a business that makes electrical installations in violation of ORS 479.620(1).

At hearing, Winner Electric argued that its website does not specifically reference the “installation” of electrical products and equipment and therefore does not run afoul of ORS 479.620(1). This contention is not persuasive. The website indicates that Winner Electric offers residential and commercial services, including “whole house rewire,” changing and replacing lighting fixtures, and changing and replacing electrical panels.⁵ Any reasonable and objective person viewing and reading Winner Electric’s website would construe Winner Electric as a business that does electrical installations as defined in ORS 479.530(10)⁶ and view the website as an advertisement or solicitation for the same.

Winner Electric also argued that, because the website was updated at some point in 2024 to reference Merritt Electric and because the company has a subcontractor agreement with Merritt Electric, Winner Electric is not purporting to engage in the business of making electrical installations. This contention also lacks merit. The updated website describes Winner Electric as “a Division of Merritt Electric.”⁷ When a business describes itself as a “division” of another business, that generally means the former business is a part of, or segment of, the latter business, with the latter serving as the parent company. Thus, as written, the updated website indicates

⁵ See, e.g., Ex. A16 at 40, Ex. A17 at 1.

⁶ ORS 479.530(10) states, “‘Electrical installation’ also means the maintenance or repair of installed electrical wiring.”

⁷ Ex. A17 at 1, 2.

that Winner Electric is a part of Merrill Electric and suggests that Merrill Electric owns Winner Electric. The Winner Electric website fails to accurately portray the contractual relationship between Winner Electric and Merrill Electric when it describes Winner Electric as a division of Merrill Electric. There is no mention of the fact that Winner Electric and Merrill Electric are separate companies operating under separate ownership. A reasonable and objective person would take from this description that Winner Electric would be performing the electrical installation work advertised on the website.

Consequently, the evidence establishes that, during the period of March 19, 2024 through at least November 2, 2024, Winner Electric's website advertised electrical installations and portrayed Winner Electric as a business that was licensed to make electrical installations, when in fact Winner Electric was not licensed to do so. The Division has proven that Winner Electric violated ORS 479.620(1) by maintaining its internet website advertising electrical installation services after its electrical contractor license was revoked.

Civil Penalty for the Violation of ORS 479.620(1)

As discussed previously herein, the Board is authorized under ORS 455.895(1)(b) and ORS 479.995 to impose a civil penalty for Winner Electric's violation of ORS 479.620(1). And, where there is a pattern of violations (two or more prior violations during a five-year period), the Board is authorized to increase the civil penalty in accordance with the provisions of OAR 918-001-0036 and the Civil Penalty Matrix.

Because Winner Electric has a pattern of violations during a five-year period, the company is subject to a civil penalty of \$4,000 for violating ORS 479.620(1) as provided in the Civil Penalty Matrix. *See Exhibit A18 at 2.*

3. *Disqualification from Licensure*

Finally, based on Winner Electric's violations, the Division seeks to disqualify Winner Electric from obtaining an Oregon electrical contractor license for a period of five years.

ORS 455.127 provides:

(1) As used in this section, "person" includes individuals, corporations, associations, firms, partnerships, limited liability companies, joint stock companies, public agencies and an owner or holder of a direct or indirect interest in a corporation, association, firm, partnership, limited liability company or joint stock company.

(2) The Director of the Department of Consumer and Business Services, the Department of Consumer and Business Services or an appropriate advisory board may disqualify a person from obtaining or renewing a license, registration, certificate or certification if the person:

(a) Is or has been subject to civil penalties, revocation, cancellation or suspension

of a license, registration, certificate or certification or other sanction by the director, department or an advisory board; or

(b) Is or has been directly involved in an act for which the director, department or an advisory board has levied civil penalties, revoked, canceled or suspended a license, registration, certificate or certification or imposed other sanction while the person served as a principal, director, officer, owner, majority shareholder, member or manager of a limited liability company or in another capacity with direct or indirect control over another business.

(3) A disqualification under subsection (2) of this section shall be for a period determined by the director, department or appropriate advisory board by rule, not to exceed five years. If a person applies for reinstatement of a revoked license, registration, certificate or certification after the period of disqualification, the person must meet the qualifications for initial issuance of the license, registration, certificate or certification.

See also OAR 918-001-0034(1).

Because Winner Electric is subject to civil penalties in this matter and was previously subject to civil penalties and license revocation in BCD Case C2023-0007, the Board is entitled to disqualify Winner Electric from obtaining another Oregon electrical contractor license for a period of five years pursuant to ORS 455.127(2) and (3) and OAR 918-001-0034(1) upon entry of a final order in this case.

ORDER

~~*I propose the Building Codes Division issue the following order:*~~ **After considering all of the above, the Electrical and Elevator Board issues the following order:**

- 1. Winner Electrical shall pay a total civil penalty of \$8,500 for violations of ORS 455.450(1) and ORS 479.620(1).**
- 2. Winner Electric's suspended civil penalty of \$29,000, from the Final Order issued in Division case number 2023-0007, is reinstated.**
- 3. Winner Electric is disqualified from obtaining an Oregon electrical contractor license for a period of five years upon the date of entry of a final order in this matter.**

~~For the violation of ORS 455.450(1), Winner Electric is liable for a civil penalty of \$4,500.~~

~~In addition, Winner Electric's suspended civil penalty of \$29,000 from the Consent Order in BCD Case C2023-0007 is reinstated.~~

~~For the violation of ORS 479.620(1), Winner Electric is liable for a civil penalty of \$4,000.~~

~~Winner Electric is also disqualified from obtaining an Oregon electrical contractor license for a period of five years upon the date of entry of a final order in this matter.~~

_____ for
Chair
Electrical and Elevator Board
State of Oregon

Date: _____

APPEAL PROCEDURE

This is the Administrative Law Judge's Proposed Order. You have the right to file written exceptions and argument to be considered per OAR 137-003-0650. Your exceptions and argument must be received within 20 calendar days after the service date of this Proposed Order. Send them to:

Building Codes Division
Manager, Andrea Simmons
PO Box 14470
Salem, OR 97309-0404

SERVICEMEMBERS' CIVIL RELIEF ACT

Unless otherwise stated in this order, the Office of Administrative Hearings (OAH) has no reason to believe that a party to this proceeding is subject to the Servicemembers' Civil Relief Act (SCRA). If a party to this proceeding is a servicemember who did not appear for the hearing, within the servicemember's period of service, or 90 days after their termination of service, that party should immediately contact the agency to address any rights they may have under the SCRA.

CERTIFICATE OF MAILING

On March 13, 2025, I mailed the foregoing PROPOSED ORDER issued on this date in OAH Case No. 2024-ABC-06706.

By: Electronic and Certified Mail

Terence S McLaughlin
PO Box 672
Carlton OR 97111
Email: tsm123@comcast.net

By: Electronic Mail

Paul M. Nelson

[REDACTED]
[REDACTED]
[REDACTED]
Email: [REDACTED]

Winner Electric Construction, Inc.
27385 SE Fairmont DR
Boring OR 97009
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Michael Mayorga-Hamilton
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Building Codes Division
PO Box 14470
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Kelly K. Routt
Assistant Attorney General
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Salem OR 97301
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Anesia N Valihov
Hearing Coordinator

State of Oregon

Board Memo

Building Codes Division

May 22, 2025

To: The Electrical and Elevator Board

From: Michael Mayorga Hamilton, contested case representative, Licensing Compliance Section

Subject: Approval of a Final Order for OAH Case No. 2024-ABC-06704, BCD Case No. C2024-0031, In the Matter of Paul Nelson

Action requested:

To review the Proposed Order from the Office of Administrative Hearings (“OAH”) and to issue a Final Order.

Background:

On June 18, 2024, the Electrical and Elevator Board (“Board”) of the Building Codes Division (“Division”) issued a Notice of Proposed Civil Penalties; Notice of Proposed Reinstatement of Previously Suspended Civil Penalties; and Notice of Proposed Disqualification.

The Division alleged the following violations in the Notice: Respondent violated ORS 455.450(1) by failing to comply with a Final Order issued by the Board; and Respondent violated ORS 455.450(2) by assisting Winner Electric in committing violations of ORS 479.620(1) and ORS 479.550. On August 19, 2024, Respondent acting through its attorney, Terence S. McLaughlin, requested a hearing.

On February 19, 2025, after receiving new evidence, the Board amended its Notice of Proposed Civil Penalties; Notice of Proposed Reinstatement of Previously Suspended Civil Penalties; and Notice of Proposed Disqualification to remove four counts of ORS 455.450(2).

The hearing ultimately took place on March 6, 2025, before Administrative Law Judge (“ALJ”) Alison G. Webster at the OAH. On March 13, 2025, a Proposed Order was issued. *See* attached Exhibit 1. ALJ Webster determined that the Division met its burden of establishing that Respondent violated ORS 455.450(1) and ORS 455.450(2). ALJ Webster also affirmed that the Division proposed reinstatement of previous suspended civil penalties and disqualification was appropriate.

Respondent was given an opportunity to file exceptions within 20 calendar days from the date of service of the Proposed Order. Respondent failed to file a response to the Proposed Order.

Modifications to the Proposed Order:

The Division recommends the Board incorporate the suggested modifications into the language of the Final Order. *See* attached Exhibit 2. These recommended modifications will not alter ALJ Webster's proposed order concerning Respondent's penalties.

The Division also recommends additional modifications in the Proposed Order, including language in the Order section of the Final Order, to provide clarity. These recommended changes are outlined in the drafted Final Order using ~~strikeouts~~ for removed language and **underlining and bold** for proposed new language. *See* attached Exhibit 2.

Options:

After considering the Proposed Order, the Board may:

- Accept the Division's recommended modifications and issue the Order provided in Exhibit 2 as the Final Order.
- Amend the ALJ's Proposed Order, specify what the Board would like to alter in the Proposed Order, and provide direction about the issuance of a Final Order.
- Disapprove the Proposed Order and provide further direction to the Division.

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON
for the
BUILDING CODES DIVISION
OREGON ELECTRICAL AND ELEVATOR BOARD**

IN THE MATTER OF:) **PROPOSED ORDER**
)
 PAUL M. NELSON) OAH Case No. 2024-ABC-06704
) Agency Case No. C2024-0031
)
)

HISTORY OF THE CASE

On June 18, 2024, the Oregon Electrical and Elevator Board (Board) issued a Notice of Proposed Assessment of Civil Penalties; Notice of Proposed Reinstatement of Previously Suspended Civil Penalties; Notice of Proposed Disqualification from Obtaining an Oregon Electrical License; and Notice of Right to a Hearing (Notice) to Paul M. Nelson. On August 19, 2024, Mr. Nelson requested a hearing on the Notice.

On September 26, 2024, the Building Codes Division (BCD or Division) referred the hearing request to the Office of Administrative Hearings (OAH).¹ The Division requested a change of ALJ. On October 16, 2024, the Presiding ALJ granted the Division’s request and reassigned the matter to a different ALJ. On October 17, 2024, counsel for Mr. Nelson requested a change of ALJ. On October 21, 2024, the Presiding ALJ granted Mr. Nelson’s request and reassigned the matter to Senior ALJ Alison G. Webster to preside at hearing.

On October 30, 2024, ALJ Webster convened a prehearing conference. Assistant Attorney General (AAG) Kelly Routt represented the Division with agency representative Michael Mayorga-Hamilton also present. Attorney Terence McLaughlin represented Mr. Nelson and Winner Electric, Inc. (Winner Electric). During the conference, ALJ Webster consolidated this matter with OAH Case 2024-ABC-06704, involving Winner Electric. The consolidated hearing was set for March 6, 2025 and if needed March 7, 2025, by video conference.

On February 19, 2025, the Board issued an Amended Notice of Proposed Assessment of Civil Penalties; Amended Notice of Proposed Reinstatement of Previously Suspended Civil Penalties; Amended Notice of Proposed Disqualification; and Amended Notice of Right to a Hearing (Amended Notice) to Mr. Nelson.

¹ On the same date, the Division also referred a second matter related to this case, Winner Electric, Inc., BCD Case no. C2024-0030, and requested that the two cases be consolidated for hearing.

ALJ Webster convened the consolidated hearing by telephone on March 6, 2025.² Attorney McLaughlin represented Mr. Nelson and Winner Electric. AAG Routt represented the Division. The following witnesses testified on the Division's behalf: Division employees Dannielle Clark, Kimberly Bowen, Andrea Simmons, Mr. Mayorga-Hamilton, and Electrical Program Chief, Brian Crise. Mr. Nelson testified on his own behalf and on behalf of Winner Electric. The record closed at the conclusion of the hearing on March 6, 2025.

ISSUES

1. Whether Mr. Nelson failed to comply with the payment terms of a Consent Order (BCD Case C2022-0161) and, if so:
 - a. Whether the Board should assess Mr. Nelson a civil penalty under ORS 455.450(1).
 - b. Whether the Division, on behalf of the Board, may reinstate the previously suspended civil penalties from that Consent Order.
2. Whether, between March 19, 2024 and November 1, 2024, Mr. Nelson engaged in, or assisted Winner Electric to engage in, the business of an electrical contractor by advertising electrical installations without a valid electrical contractor's license in violation of ORS 479.620 and, if so, whether the Board should assess Mr. Nelson a civil penalty under ORS 455.450(2).
3. Whether the Board should disqualify Mr. Nelson from obtaining any Oregon electrical license for a period of up to five years. ORS 455.127(2), (3).

EVIDENTIARY RULINGS

Division Exhibits A1 through A18 were admitted into the record without objection.³ Mr. Nelson's Exhibit 102 was admitted over the Division's objection and Exhibit 103 was admitted without objection.

FINDINGS OF FACT

1. At all times pertinent to this matter, Winner Electric was a registered business with the Oregon Corporation Division, with its principal place of business at 27385 SE Fairmount Drive, Boring, Oregon. At all times pertinent to this matter, Mr. Nelson was Winner Electric's registered agent, president, secretary and stockholder. (Ex. A1.)
2. In its June 2023 annual report filing with the Oregon Corporation Division, Winner Electric listed its business as Electrical Contracting. (Ex. A3.) In its June 2024 annual report

² Due to technical difficulties with the Webex video platform, the hearing was converted to a telephone hearing over Mr. Nelson's objection to the format. *See* OAR 137-003-0045(1) (an agency may, in its discretion, hold a hearing by telephone).

³ Mr. Nelson withdrew his foundational objections to Exhibits A16 and A17 upon the Division's witnesses' authentication of these documents.

filing with the Oregon Corporation Division, Winner Electric listed its business as Electrical Contracting, Estimating and Consulting. (Ex. A2.)

3. Winner Electric was first licensed by the Oregon Construction Contractors Board (CCB) in 1976. At some point in late 2024 or early 2025, the CCB suspended Winner Electric's CCB license 14794 for failing to file proof of insurance. (Ex. A4.)

4. In 2022 and 2023, the Division, acting on behalf of the Board, opened investigations into Mr. Nelson and Winner Electric for violations of Division statutes and rules. In October 2023, both Mr. Nelson and Winner Electric waived their respective rights to a contested case hearing and entered Consent Orders with the Board acknowledging numerous violations of Division statutes and rules. The Consent Orders became final as of November 16, 2023. (Exs. A5 and A6.)

5. In the Winner Electric Consent Order (BCD Case C2023-0007), Winner Electric acknowledged a violation OAR 918-282-0010(1) (failing to continuously employ at least one full-time general supervising electrician), 52 violations of OAR 918-282-0015 (failing to ensure electrical installations were made under the supervision and control of a supervising electrician), and 44 violations of OAR 918-309-0000(1) (providing false information to obtain an electrical permit). The Board assessed a total civil penalty of \$49,000 against Winner Electric for these violations, with the suspension of \$29,000 of the total civil penalty if Winner Electric complied with all other terms of the Consent Order. (Ex. A6 at 16-19.)

6. In the Paul Nelson Consent Order (BCD Case C2022-0161), Mr. Nelson acknowledged that he violated ORS 479.620(2) and that he was subject to civil penalties for Winner Electric's violations of OAR 918-282-0010(1), OAR 918-2820-0015, and OAR 918-309-0000(1) because he was an officer and shareholder of Winner Electric and he personally participated in the violations committed by Winner Electric. Mr. Nelson acknowledged, among other things, that he knowingly and intentionally applied a falsified signature to documents and forms that Winner Electric submitted to the Division. Mr. Nelson also acknowledged that he violated OAR 918-282-0170(1)(b) by installing a new electrical distribution panel without the supervision, direction, and control of a general supervising electrician. (Ex. A5 at 1-12.)

7. In BCD Case C2022-00161, the Board assessed a total civil penalty of \$24, 000 against Mr. Nelson for the violations. (Ex. A5 at 16-21.) The Board agreed to suspend \$14,000 of the total civil penalty if Mr. Nelson complied with all other terms of the Consent Order, including payment of the remaining \$10,000 on or before January 31, 2024. By signing the Consent Order, Mr. Nelson acknowledged that if he committed any further violations of the Division's statutes or rules within a five-year period, "the entire civil penalty, including any suspended amount, will become due and payable." (*Id.* at 22.) Mr. Nelson further acknowledged that the failure to comply with the Consent Order included failing to pay the \$10,000 civil penalty amount by January 31, 2024. (*Id.*)

8. Pursuant to the terms of the final Consent Orders, the Board revoked Winner Electric's electrical contractor license, number 34-150C, and Mr. Nelson's journeyman electrician license, number 21658J, effective January 31, 2024. (Exs. A6 at 19 and A5 at 22.)

9. Mr. Nelson failed to pay the \$10,000 civil penalty by the January 31, 2024 deadline. (Test. of Clark; Exs. A9, A11, A12.) As of January 29, 2025, the Division had still not received any civil penalty payments from Mr. Nelson. (Test. of Clark; Ex. A9.)

10. On or about January 2, 2024, Mr. Nelson, in his capacity as the owner/operator of Winner Electric, signed a “Subcontractor Agreement” with Merrill Electric LLC. The parties agreed that, from time to time, Merrill Electric (the “Subcontractor”) may provide services to Winner Electric (the “Contractor”) and that the terms of the agreement applied whenever Subcontractor provided services to Contractor. (Ex. 102.)

11. Mr. Nelson, on behalf of Winner Electric, maintained an internet website advertising Winner Electric’s electrical services and products. From at least March 19, 2024, through November 2, 2024, Winner Electric’s website used the following URL (uniform resource locator) address: paulnelson680.wixsite.com/winner-electric-. (Exs. A16 and A17.)

12. As of March 19, 2024, Winner Electric’s website consisted of three webpages, “Home,” “Services,” and “About.” The “Home” page included Winner Electric’s name and phone number and stated as follows:

WELCOME Winner Electric Corporation Inc is pleased to offer exceptional service at all job sites big and small. We look forward to exceeding your expectations by providing efficient work at affordable prices.

(Ex. A16 at 1.)

13. At some point between March 19, 2024, and November 2, 2024, Mr. Nelson updated Winner Electric’s “Home” page to state:

WELCOME Winner Electric a Division of Merrill Electric is pleased to offer exceptional service at all job sites big and small. We look forward to exceeding your expectations by providing efficient work at affordable prices.

(Ex. A17 at 1.)

14. The Winner Electric website “Home” page identified three categories of services offered by Winner Electric – Residential, Commercial, and Generators and Panels – as follows:

RESIDENTIAL	COMMERCIAL	GENERATORS AND PANELS
Remodels, Whole House Rewire, Knob and Tube Replacement, Exterior and Emergency Lighting, Fixture Replacement.	Restaurant & Bar, Spas, Retail Space, Tenant Improvements, Electrical Maintenance, Specialty Lighting, Exterior Lighting.	Electrical Service and Panel Upgrades, Generator Installation, EV Car Chargers, and Power Outages.

(Ex. A17 at 1.)

15. During the period of March 19, 2024, to May 2, 2024, the “Services” page of Winner Electric’s website included the following information:

Lighting	Panels & Services	Backup Generator
Recessed Lighting, Rope Lighting, Change out fixtures, Zone Lighting, Landscape & Exterior Lighting, Emergency Lighting, Security Lighting	Change Out Old Panels, Upgrade Over Head and Underground Services, Replace & Upgrade Circuits & Fuses, Replacement of Old Dangerous Panels	Whether you have planned to purchase a Generac® portable generator for the office or want to install a standby Generac® whole house generator, come to us with full assurance that we will: <ul style="list-style-type: none"> • Provide authentic products • Offer generator models for diverse budgets

(Ex. A16 at 2 – 40.)

16. As of November 2, 2024, the “About” page on Winner Electric’s website stated, in part as follows:

Winner Electric a Division of Merrill Electric is a family owned business. To us, “family includes you. * * * Longevity of business means treating your clients the way you’d want to be treated, and thats [sic] what we do. With 44 years of business we’ve got the experience to provide you with superior service at affordable prices.

(Ex. A17 at 2.)

17. After January 31, 2024, when a potential customer contacted Winner Electric to perform electrical installation services, Mr. Nelson would take the customer’s information and prepare a written estimate for the total cost of the service. The written estimate included Winner Electric’s name, phone number, and CCB license number. The estimate also identified Winner Electric as “a Division of Merrill Electric.” (See Ex. 103.) If the customer contracted for the electrical installation services, then Mr. Nelson referred the job to Merrill Electric, who – pursuant to the Subcontractor Agreement – sent a licensed electrician to do the work. The customer paid Winner Electric and then Mr. Nelson paid Merrill Electric. (Test. of Nelson.)

18. In early 2025, Mr. Nelson took down Winner Electric’s website and stopped advertising Winner Electric’s services. (Test. of Nelson.)

19. In accordance with OAR 918-001-0036(6), the Division developed the Advisory Board Civil Penalty Matrix (Penalty Matrix) to assist the Board in imposing penalties for violations of the electrical safety laws and rules. The Penalty Matrix provides for civil penalties based upon the type of violation and “upon the number of violations committed within five years of the date of the present violation.” (Ex. A18 at 1.) Where there is a pattern of violations, the

Penalty Matrix provides for a civil penalty of \$4500 for failing to comply with a directive. (*Id.* at 2.) The Penalty Matrix further provides:

The entire penalty is imposed in all cases. * * *. A stay of some portion of a penalty is within the sole discretion of the board or the division acting on the board's behalf for purposes of settling cases prior to hearing.

(*Id.* at 1.)

CONCLUSIONS OF LAW

1. Mr. Nelson failed to comply with the payment terms of a Consent Order (BCD Case C2022-0161). The Board should reinstate the previously suspended civil penalties from that Consent Order and assess an additional civil penalty for the violation of ORS 455.450(1).

2. Between March 19, 2024 and November 1, 2024, Mr. Nelson assisted Winner Electric in its violation of ORS 479.620(1). The Board should assess a civil penalty against Mr. Nelson for his violation of ORS 455.450(2).

3. The Board should also disqualify Mr. Nelson from obtaining any Oregon electrical license for a period of five years. ORS 455.127(2), (3).

OPINION

The Division bears the burden to establish by a preponderance of the evidence that the alleged conduct and violations occurred and that the proposed sanctions are warranted. *See* ORS 183.450(2) (“The burden of presenting evidence to support a fact or position in a contested case rests on the proponent of the fact or position”); *Harris v. SAIF*, 292 Or 683, 690 (1982) (general rule regarding allocation of burden of proof is that the burden is on the proponent of a fact or position); *Dixon v. Board of Nursing*, 291 Or App 207, 213 (2018) (preponderance standard of proof generally applies in agency proceedings). Proof by a preponderance of the evidence means that the fact finder is persuaded that the facts asserted are more likely than not true. *Riley Hill General Contractor v. Tandy Corp.*, 303 Or 390, 402 (1987).

1. Violation of a Final Order

In the Amended Notice, the Division contends that Mr. Nelson violated the terms of the Consent Order in BCD Case C2022-0161 by failing to pay the \$10,000 civil penalty.

ORS 455.450 provides, in pertinent part:

A person may not:

(1) Violate, or procure or assist in the violation of, any final order of the Director of the Department of Consumer and Business Services, an advisory board, a state administrative officer or any local appeals board, building official or inspector,

concerning the application of the state building code in a particular case or concerning a license, certificate, registration or other authorization.

As found above, the Consent Order in BCD Case C2022-0161 became final as of November 16, 2023. Pursuant to the terms of that final order, Mr. Nelson was required to pay a civil penalty of \$10,000 on or before January 31, 2024. Mr. Nelson concedes that he has failed to pay the civil penalty amount. Mr. Nelson’s failure to pay this \$10,000 civil penalty constitutes a violation of the final Consent Order and a violation of ORS 455.450(1).

Civil Penalty for Violation of ORS 455.450(1)

The Division has established that Mr. Nelson violated ORS 455.450(1) by failing to comply with the terms of a final order. ORS 455.895(1)(b) authorizes the Board to “impose a civil penalty against a person as provided under ORS 479.995.” ORS 479.995 provides:

The Electrical and Elevator Board may impose a civil penalty for a violation of ORS 479.510 to 479.945 or rules adopted for the administration or enforcement of ORS 479.510 to 479.945 and this section. The board shall impose a civil penalty authorized by this section as provided in ORS 455.895.

OAR 918-001-0036 sets out the guidelines for civil penalties and provides, in part:

(1) Scope and Authority. This rule sets guidelines for assessing a civil penalty under ORS 446.995 & 455.895.

(2) Definitions. For the purposes of this rule:

* * * * *

(b) A “directive” includes, but is not limited to, a notice or warning, citation, order, consent decree or settlement agreement, rule, law, code requirement, or agency interpretation.

(c) “Pattern of violation” means two or more prior violations during a five-year period of any provision of ORS Chapter 446, 447, 455, 460, 479, 480, or 693, or the state building code as defined in 455.010, whether or not a penalty was assessed. A pattern of violation is calculated within a five-year period from the date of the latest violation.

* * * * *

(4) Civil penalties may be assessed by a board, the Director, or a board’s designee acting as agent for a board. A board or the Director may take into account any appropriate factors, including previous directives, in determining the penalty amount or conditions within an order. The statutorily defined maximum penalty may only be assessed upon a finding of a pattern of violation.

* * * * *

(6) The Director may, subject to approval of a board, develop a penalty matrix for the board's use to promote equity and uniformity in proposing the amount and terms of civil penalties and conditions under which the penalties may be modified based on the circumstances in individual cases.

As set out above, the Division's Civil Penalty Matrix, Exhibit A18, accounts for the nature of the violation and the number of violations committed within five years of the date of the violation(s) at issue. As pertinent here, where the violation is for the failure to comply with a directive and there is a pattern of violations in the five-year period, the Board assesses a civil penalty of \$4,500. *Id.*

Because Mr. Nelson's violation of ORS 455.450(1) occurred within five years of the violations adjudicated in BCD Case C2022-00161, this violation of ORS 455.450(1) is among a pattern of violations within the meaning of OAR 918-001-0036(2)(a). This entitles the Division and/or Board to assess the statutorily authorized maximum penalty. OAR 918-001-0036(4). Accordingly, Mr. Nelson is subject to an increased civil penalty of \$4,500 for his failure to comply with the terms of the Consent Order.

Reinstatement of the \$14,000 Civil Penalty

Additionally, as set out in the Consent Order, Mr. Nelson's failure to comply with the terms of the Consent Order (or any other violation of the Division's statutes and rules) within five years after the Consent Order became final on November 16, 2023, results in the entire \$24,000 civil penalty, including the previously suspended \$14,000, to become due and payable.

Accordingly, Mr. Nelson's violation of the Consent Order and violation of ORS 455.450(1) also results in the reinstatement of the previously suspended civil penalty of \$14,000.

2. Assisting Winner Electric to Engage in Electrical Contractor Business Without a Valid Electrical Contractor's License

In the Amended Notice, the Division also alleges that, from at least March 19, 2024 through at least November 1, 2024, Mr. Nelson violated ORS 455.450(2) by assisting Winner Electric to engage in electrical contractor business without an electrical contractor's license in violation of ORS 479.620(1). The Division contends that, as Winner Electric's owner, shareholder, president, secretary, and registered agent, Mr. Nelson had an obligation to remove Winner Electric's website from the internet once Winner Electric's electrical contractor license was revoked on January 31, 2024. The Division contends that because Winner Electric continued to advertise electrical installations after its electrical contractor's license was revoked, Winner Electric violated ORS 479.620(1).

ORS 455.450(2) states that a person may not:

Engage in, or procure or assist any other person to engage in, any conduct or activity for which a permit, label, license, certificate, registration or other formal authorization is required by any specialty code, any provision of ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 446.566 to 446.646, 446.666 to 446.746, 479.510 to 479.945, 479.950 and 480.510 to 480.670, this chapter or ORS chapter 447, 460 or 693, or any rule adopted or order issued for the administration and enforcement of those provisions, without first having obtained such permit, label, license, certificate, registration or other formal authorization.

ORS 479.620 addresses the licensing requirement and prohibits electrical installations by unlicensed persons. The statute provides in pertinent part:

Subject to ORS 479.540,⁴ a person may not:

(1) Without an electrical contractor's license, engage in the business of making electrical installations, *advertise as or otherwise purport to be licensed to make electrical installations or purport to be acting as a business that makes electrical installations.*

Emphasis added. "Electrical installations" are defined in ORS 479.530(10) as follows:

"Electrical installations" means the construction or installation of electrical wiring and the permanent attachment or installation of electrical products in or on any structure that is not itself an electrical product. "Electrical installation" also means the maintenance or repair of installed electrical wiring and permanently attached electrical products. "Electrical installation" does not include an oil module.

"Electrical product" is defined in ORS 479.530(11) to mean "any electrical equipment, material, device or apparatus that, except as provided in ORS 479.540, requires a license or permit to install and either conveys or is operated by electrical current." "Equipment" is defined in ORS 479.530(12) as "any material, fittings, devices, appliances, fixtures, apparatus or the like that are used as part of or in connection with an electrical installation."

Additionally, OAR 918-030-0010(8) defines the phrase "engaging in the business" as follows:

For purposes of ORS 447.040, 479.620, 480.630 and any other license regulated by ORS chapter 455, "engaging in the business" means *to advertise or solicit, contract or agree to perform, or to perform, work for which a license or permit is required under Oregon law, including but not limited to a single instance.*

Emphasis added.

⁴ ORS 479.540 sets out exemptions to the requirement to obtain a license to make installation, none of which are applicable in this case.

There is no dispute that light fixtures, electrical panels, electrical circuits, electrical wiring, and backup generators are “electrical products” under ORS 479.530(11). Similarly, there is no dispute that the installation, maintenance, or repair of light fixtures, electrical panels, electrical circuits, electrical wiring, and backup generators constitutes “electrical installations” under ORS 479.540(10). At issue in this case is whether, by maintaining its internet website offering lighting, electrical panel, and standby generator services after January 31, 2024, Winner Electric advertised or otherwise purported to engage in a business that makes electrical installations in violation of ORS 479.620(1). If Winner Electric did so, then Mr. Nelson, as the sole owner, principal and agent of Winner Electric, violated ORS 455.450(2) by assisting with and participating in Winner Electric’s violation.

At hearing, Mr. Nelson argued that Winner Electric’s website does not specifically reference the “installation” of electrical products and equipment and therefore does not run afoul of ORS 479.620(1). This contention is not persuasive. The website indicates that Winner Electric offers residential and commercial services, including “whole house rewire,” changing and replacing lighting fixtures, changing and replacing electrical panels.⁵ Any reasonable and objective person viewing and reading Winner Electric’s website would construe Winner Electric as a business that does electrical installations as defined in ORS 479.530(10)⁶ and view the website as an advertisement or solicitation for the same.

Mr. Nelson also argued that, because he updated Winner Electric’s website at some point in 2024 to reference Merritt Electric, and because Winner Electric has a subcontractor agreement with Merritt Electric, Winner Electric is not purporting to engage in the business of making electrical installations. This contention also lacks merit. The updated website describes Winner Electric as “a Division of Merritt Electric.”⁷ When a business describes itself as a “division” of another business, that generally means the former business is a part of, or segment of, the latter business, with the latter serving as the parent company. Thus, as written, the updated website indicates that Winner Electric is a part of Merritt Electric and suggests that Merritt Electric owns Winner Electric. The Winner Electric website fails to accurately portray the contractual relationship between Winner Electric and Merritt Electric when it describes Winner Electric as a division of Merritt Electric. There is no mention of the fact that Winner Electric and Merritt Electric are separate companies operating under separate ownership. A reasonable and objective person would take from this description that Winner Electric would be performing the electrical installation work advertised on the website.

Consequently, the evidence establishes that, during the period of March 19, 2024 through at least November 2, 2024, Winner Electric’s website advertised electrical installations and portrayed Winner Electric as a business that was licensed to make electrical installations, when in fact Winner Electric was not licensed to do so. The Division has proven that Winner Electric violated ORS 479.620(1). The Division has also proven that Mr. Nelson, the company’s owner

⁵ See, e.g., Ex. A16 at 40, Ex. A17 at 1.

⁶ ORS 479.530(10) states, “‘Electrical installation’ also means the maintenance or repair of installed electrical wiring.”

⁷ Ex. A17 at 1, 2.

and operator, assisted Winner Electric to violate ORS 479.620(1) by failing to remove Winner Electric's website advertising electrical installations by January 31, 2024. In assisting Winner Electric in this manner, Mr. Nelson violated ORS 455.450(2).

The fact that Winner Electric subcontracted its electrical installation work out to Merrill Electric in 2024 does not absolve Winner Electric from the violation of ORS 479.620(1) or Mr. Nelson from the violation of ORS 455.450(2). As noted above, the law prohibits unlicensed businesses from purporting to act as a business that makes electrical installations. The Division's rules define engaging in the business to include advertising, soliciting, contracting, or agreeing to perform work for which a license is required. OAR 918-030-0010(8). By speaking with customers on Winner Electric's behalf, preparing the written estimates for the cost of the service, issuing the invoice, and collecting payments, Mr. Nelson assisted Winner Electric to engage in the business of making electrical installations without an electrical contractor license in violation of ORS 479.620(1). In assisting Winner Electric in this manner, Mr. Nelson violated ORS 455.450(2).

Civil Penalty for the Violation of ORS 479.450(2)

As discussed previously herein, the Board is authorized under ORS 455.895(1)(b) and ORS 479.995 to impose a civil penalty for Mr. Nelson's violation of ORS 455.450(2). Where there is a pattern of violations, the Board is authorized to increase the civil penalty in accordance with the provisions of OAR 918-001-0036 and the Penalty Matrix.

Mr. Nelson has a pattern of violations during a five-year period. As documented in BCD Case C2022-00161, he repeatedly violated ORS 479.620(2) as well as OAR 918-282-0170(1)(b). In this matter, he violated ORS 479.450(1) and (2). Accordingly, based on the Penalty Matrix, Mr. Nelson is subject to a civil penalty of \$4,500 for the violation of ORS 479.450(2). *See* Exhibit A18 at 2.

3. Disqualification from Licensure

Finally, based on Mr. Nelson's violations, the Division seeks to disqualify him from obtaining any Oregon electrical license for a period of five years.

ORS 455.127 provides:

(1) As used in this section, "person" includes individuals, corporations, associations, firms, partnerships, limited liability companies, joint stock companies, public agencies and an owner or holder of a direct or indirect interest in a corporation, association, firm, partnership, limited liability company or joint stock company.

(2) The Director of the Department of Consumer and Business Services, the Department of Consumer and Business Services or an appropriate advisory board may disqualify a person from obtaining or renewing a license, registration, certificate or certification if the person:

(a) Is or has been subject to civil penalties, revocation, cancellation or suspension of a license, registration, certificate or certification or other sanction by the director, department or an advisory board; or

(b) Is or has been directly involved in an act for which the director, department or an advisory board has levied civil penalties, revoked, canceled or suspended a license, registration, certificate or certification or imposed other sanction while the person served as a principal, director, officer, owner, majority shareholder, member or manager of a limited liability company or in another capacity with direct or indirect control over another business.

(3) A disqualification under subsection (2) of this section shall be for a period determined by the director, department or appropriate advisory board by rule, not to exceed five years. If a person applies for reinstatement of a revoked license, registration, certificate or certification after the period of disqualification, the person must meet the qualifications for initial issuance of the license, registration, certificate or certification.

See also OAR 918-001-0034(1).

Because Mr. Nelson is subject to civil penalties in this matter and was previously subject to civil penalties and license revocation in BCD Case C2022-0161, Board is entitled to disqualify him from obtaining any other Oregon electrical license for a period of five years pursuant to ORS 455.127(2) and (3) and OAR 918-001-0034(1) upon entry of a final order in this case.

ORDER

I propose the Building Codes Division issue the following order:

For the violation of ORS 455.450(1), Mr. Nelson is liable for a civil penalty of \$4,500.

In addition, Mr. Nelson's suspended civil penalty of \$14,000 from the Consent Order in BCD Case C2022-00161 is reinstated.

For the violation of ORS 455.450(2), Mr. Nelson is liable for a civil penalty of \$4,500.

Mr. Nelson is also disqualified from obtaining an Oregon electrical license for a period of five years upon the date of entry of a final order in this matter.

Alison G. Webster

Senior Administrative Law Judge
Office of Administrative Hearings

APPEAL PROCEDURE

This is the Administrative Law Judge's Proposed Order. You have the right to file written exceptions and argument to be considered per OAR 137-003-0650. Your exceptions and argument must be received within 20 calendar days after the service date of this Proposed Order. Send them to:

Building Codes Division
Manager, Andrea Simmons
PO Box 14470
Salem, OR 97309-0404

SERVICEMEMBERS' CIVIL RELIEF ACT

Unless otherwise stated in this order, the Office of Administrative Hearings (OAH) has no reason to believe that a party to this proceeding is subject to the Servicemembers' Civil Relief Act (SCRA). If a party to this proceeding is a servicemember who did not appear for the hearing, within the servicemember's period of service, or 90 days after their termination of service, that party should immediately contact the agency to address any rights they may have under the SCRA.

CERTIFICATE OF MAILING

On March 13, 2025, I mailed the foregoing PROPOSED ORDER issued on this date in OAH Case No. 2024-ABC-06704.

By: Electronic and Certified Mail

Terence S McLaughlin
PO Box 672
Carlton OR 97111
Email: tsm123@comcast.net

By: Electronic Mail

Paul M. Nelson

[REDACTED]

Email: [REDACTED]

Winner Electric Construction, Inc.
27385 SE Fairmont DR
Boring OR 97009
Email: tsm123@comcast.net

Michael Mayorga-Hamilton
Agency Representative
Building Codes Division
PO Box 14470
Salem OR 97309
Email: Michael.mayorga-hamilton@dcbs.oregon.gov

Kelly K. Routt
Assistant Attorney General
Department of Justice
1162 Court St NE
Salem OR 97301
Email: Kelly.K.Routt@doj.oregon.gov

Anesia N Valihov
Hearing Coordinator

BEFORE THE ELECTRICAL AND ELEVATOR BOARD OF THE STATE OF OREGON

~~**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS- STATE OF OREGON**~~

**for the
BUILDING CODES DIVISION
OREGON ELECTRICAL AND ELEVATOR BOARD**

IN THE MATTER OF:) **FINAL PROPOSED ORDER**
)
PAUL M. NELSON) OAH Case No. 2024-ABC-06704
) Agency Case No. C2024-0031
)
)

HISTORY OF THE CASE

On June 18, 2024, the Oregon Electrical and Elevator Board (Board) issued a Notice of Proposed Assessment of Civil Penalties; Notice of Proposed Reinstatement of Previously Suspended Civil Penalties; Notice of Proposed Disqualification from Obtaining an Oregon Electrical License; and Notice of Right to a Hearing (Notice) to Paul M. Nelson. On August 19, 2024, Mr. Nelson requested a hearing on the Notice.

On September 26, 2024, the Building Codes Division (BCD or Division) referred the hearing request to the Office of Administrative Hearings (OAH).¹ The Division requested a change of ALJ. On October 16, 2024, the Presiding ALJ granted the Division’s request and reassigned the matter to a different ALJ. On October 17, 2024, counsel for Mr. Nelson requested a change of ALJ. On October 21, 2024, the Presiding ALJ granted Mr. Nelson’s request and reassigned the matter to Senior ALJ Alison G. Webster to preside at hearing.

On October 30, 2024, ALJ Webster convened a prehearing conference. Assistant Attorney General (AAG) Kelly Routt represented the Division with agency representative Michael Mayorga-Hamilton also present. Attorney Terence McLaughlin represented Mr. Nelson and Winner Electric, Inc. (Winner Electric). During the conference, ALJ Webster consolidated this matter with OAH Case 2024-ABC-06704, involving Winner Electric. The consolidated hearing was set for March 6, 2025 and if needed March 7, 2025, by video conference.

On February 19, 2025, the Board issued an Amended Notice of Proposed Assessment of Civil Penalties; Amended Notice of Proposed Reinstatement of Previously Suspended Civil Penalties; Amended Notice of Proposed Disqualification; and Amended Notice of Right to a Hearing (Amended Notice) to Mr. Nelson.

¹ On the same date, the Division also referred a second matter related to this case, Winner Electric, Inc., BCD Case no. C2024-0030, and requested that the two cases be consolidated for hearing.

ALJ Webster convened the consolidated hearing by telephone on March 6, 2025.² Attorney McLaughlin represented Mr. Nelson and Winner Electric. AAG Rouff represented the Division. The following witnesses testified on the Division's behalf: Division employees Dannielle Clark, Kimberly Bowen, Andrea Simmons, Mr. Mayorga-Hamilton, and Electrical Program Chief, Brian Crise. Mr. Nelson testified on his own behalf and on behalf of Winner Electric. The record closed at the conclusion of the hearing on March 6, 2025.

ISSUES

1. Whether Mr. Nelson failed to comply with the payment terms of a Consent Order (BCD Case C2022-0161) and, if so:
 - a. Whether the Board should assess Mr. Nelson a civil penalty under ORS 455.450(1).
 - b. Whether the Division, on behalf of the Board, may reinstate the previously suspended civil penalties from that Consent Order.
2. Whether, between March 19, 2024 and November 1, 2024, Mr. Nelson engaged in, or assisted Winner Electric to engage in, the business of an electrical contractor by advertising electrical installations without a valid electrical contractor's license in violation of ORS 479.620 and, if so, whether the Board should assess Mr. Nelson a civil penalty under ORS 455.450(2).
3. Whether the Board should disqualify Mr. Nelson from obtaining any Oregon electrical license for a period of up to five years. ORS 455.127(2), (3).

EVIDENTIARY RULINGS

Division Exhibits A1 through A18 were admitted into the record without objection.³ Mr. Nelson's Exhibit 102 was admitted over the Division's objection and Exhibit 103 was admitted without objection.

FINDINGS OF FACT

1. At all times pertinent to this matter, Winner Electric was a registered business with the Oregon Corporation Division, with its principal place of business at 27385 SE Fairmount Drive, Boring, Oregon. At all times pertinent to this matter, Mr. Nelson was Winner Electric's registered agent, president, secretary and stockholder. (Ex. A1.)
2. In its June 2023 annual report filing with the Oregon Corporation Division, Winner Electric listed its business as Electrical Contracting. (Ex. A3.) In its June 2024 annual report

² Due to technical difficulties with the Webex video platform, the hearing was converted to a telephone hearing over Mr. Nelson's objection to the format. *See* OAR 137-003-0045(1) (an agency may, in its discretion, hold a hearing by telephone).

³ Mr. Nelson withdrew his foundational objections to Exhibits A16 and A17 upon the Division's witnesses' authentication of these documents.

filing with the Oregon Corporation Division, Winner Electric listed its business as Electrical Contracting, Estimating and Consulting. (Ex. A2.)

3. Winner Electric was first licensed by the Oregon Construction Contractors Board (CCB) in 1976. At some point in late 2024 or early 2025, the CCB suspended Winner Electric's CCB license 14794 for failing to file proof of insurance. (Ex. A4.)

4. In 2022 and 2023, the Division, acting on behalf of the Board, opened investigations into Mr. Nelson and Winner Electric for violations of Division statutes and rules. In October 2023, both Mr. Nelson and Winner Electric waived their respective rights to a contested case hearing and entered Consent Orders with the Board acknowledging numerous violations of Division statutes and rules. The Consent Orders became final as of November 16, 2023. (Exs. A5 and A6.)

5. In the Winner Electric Consent Order (BCD Case C2023-0007), Winner Electric acknowledged a violation OAR 918-282-0010(1) (failing to continuously employ at least one full-time general supervising electrician), 52 violations of OAR 918-282-0015 (failing to ensure electrical installations were made under the supervision and control of a supervising electrician), and 44 violations of OAR 918-309-0000(1) (providing false information to obtain an electrical permit). The Board assessed a total civil penalty of \$49,000 against Winner Electric for these violations, with the suspension of \$29,000 of the total civil penalty if Winner Electric complied with all other terms of the Consent Order. (Ex. A6 at 16-19.)

6. In the Paul Nelson Consent Order (BCD Case C2022-0161), Mr. Nelson acknowledged that he violated ORS 479.620(2) and that he was subject to civil penalties for Winner Electric's violations of OAR 918-282-0010(1), OAR 918-2820-0015, and OAR 918-309-0000(1) because he was an officer and shareholder of Winner Electric and he personally participated in the violations committed by Winner Electric. Mr. Nelson acknowledged, among other things, that he knowingly and intentionally applied a falsified signature to documents and forms that Winner Electric submitted to the Division. Mr. Nelson also acknowledged that he violated OAR 918-282-0170(1)(b) by installing a new electrical distribution panel without the supervision, direction, and control of a general supervising electrician. (Ex. A5 at 1-12.)

7. In BCD Case C2022-00161, the Board assessed a total civil penalty of \$24,000 against Mr. Nelson for the violations. (Ex. A5 at 16-21.) The Board agreed to suspend \$14,000 of the total civil penalty if Mr. Nelson complied with all other terms of the Consent Order, including payment of the remaining \$10,000 on or before January 31, 2024. By signing the Consent Order, Mr. Nelson acknowledged that if he committed any further violations of the Division's statutes or rules within a five-year period, "the entire civil penalty, including any suspended amount, will become due and payable." (*Id.* at 22.) Mr. Nelson further acknowledged that the failure to comply with the Consent Order included failing to pay the \$10,000 civil penalty amount by January 31, 2024. (*Id.*)

8. Pursuant to the terms of the final Consent Orders, the Board revoked Winner Electric's electrical contractor license, number 34-150C, and Mr. Nelson's journeyman electrician license, number 21658J, effective January 31, 2024. (Exs. A6 at 19 and A5 at 22.)

9. Mr. Nelson failed to pay the \$10,000 civil penalty by the January 31, 2024 deadline. (Test. of Clark; Exs. A9, A11, A12.) As of January 29, 2025, the Division had still not received any civil penalty payments from Mr. Nelson. (Test. of Clark; Ex. A9.)

10. On or about January 2, 2024, Mr. Nelson, in his capacity as the owner/operator of Winner Electric, signed a “Subcontractor Agreement” with Merrill Electric LLC. The parties agreed that, from time to time, Merrill Electric (the “Subcontractor”) may provide services to Winner Electric (the “Contractor”) and that the terms of the agreement applied whenever Subcontractor provided services to Contractor. (Ex. 102.)

11. Mr. Nelson, on behalf of Winner Electric, maintained an internet website advertising Winner Electric’s electrical services and products. From at least March 19, 2024, through November 2, 2024, Winner Electric’s website used the following URL (uniform resource locator) address: paulnelson680.wixsite.com/winner-electric-. (Exs. A16 and A17.)

12. As of March 19, 2024, Winner Electric’s website consisted of three webpages, “Home,” “Services,” and “About.” The “Home” page included Winner Electric’s name and phone number and stated as follows:

WELCOME Winner Electric Corporation Inc is pleased to offer exceptional service at all job sites big and small. We look forward to exceeding your expectations by providing efficient work at affordable prices.

(Ex. A16 at 1.)

13. At some point between March 19, 2024, and November 2, 2024, Mr. Nelson updated Winner Electric’s “Home” page to state:

WELCOME Winner Electric a Division of Merrill Electric is pleased to offer exceptional service at all job sites big and small. We look forward to exceeding your expectations by providing efficient work at affordable prices.

(Ex. A17 at 1.)

14. The Winner Electric website “Home” page identified three categories of services offered by Winner Electric – Residential, Commercial, and Generators and Panels – as follows:

RESIDENTIAL	COMMERCIAL	GENERATORS AND PANELS
Remodels, Whole House Rewire, Knob and Tube Replacement, Exterior and Emergency Lighting, Fixture Replacement.	Restaurant & Bar, Spas, Retail Space, Tenant Improvements, Electrical Maintenance, Specialty Lighting, Exterior Lighting.	Electrical Service and Panel Upgrades, Generator Installation, EV Car Chargers, and Power Outages.

(Ex. A17 at 1.)

15. During the period of March 19, 2024, to May 2, 2024, the “Services” page of Winner Electric’s website included the following information:

Lighting	Panels & Services	Backup Generator
Recessed Lighting, Rope Lighting, Change out fixtures, Zone Lighting, Landscape & Exterior Lighting, Emergency Lighting, Security Lighting	Change Out Old Panels, Upgrade Over Head and Underground Services, Replace & Upgrade Circuits & Fuses, Replacement of Old Dangerous Panels	Whether you have planned to purchase a Generac® portable generator for the office or want to install a standby Generac® whole house generator, come to us with full assurance that we will: <ul style="list-style-type: none"> • Provide authentic products • Offer generator models for diverse budgets

(Ex. A16 at 2 – 40.)

16. As of November 2, 2024, the “About” page on Winner Electric’s website stated, in part as follows:

Winner Electric a Division of Merrill Electric is a family owned business. To us, “family includes you. * * * Longevity of business means treating your clients the way you’d want to be treated, and thats [sic] what we do. With 44 years of business we’ve got the experience to provide you with superior service at affordable prices.

(Ex. A17 at 2.)

17. After January 31, 2024, when a potential customer contacted Winner Electric to perform electrical installation services, Mr. Nelson would take the customer’s information and prepare a written estimate for the total cost of the service. The written estimate included Winner Electric’s name, phone number, and CCB license number. The estimate also identified Winner Electric as “a Division of Merrill Electric.” (See Ex. 103.) If the customer contracted for the electrical installation services, then Mr. Nelson referred the job to Merrill Electric, who – pursuant to the Subcontractor Agreement – sent a licensed electrician to do the work. The customer paid Winner Electric and then Mr. Nelson paid Merrill Electric. (Test. of Nelson.)

18. In early 2025, Mr. Nelson took down Winner Electric’s website and stopped advertising Winner Electric’s services. (Test. of Nelson.)

19. In accordance with OAR 918-001-0036(6), the Division developed the Advisory Board Civil Penalty Matrix (Penalty Matrix) to assist the Board in imposing penalties for violations of the electrical safety laws and rules. The Penalty Matrix provides for civil penalties based upon the type of violation and “upon the number of violations committed within five years of the date of the present violation.” (Ex. A18 at 1.) Where there is a pattern of violations, the

Penalty Matrix provides for a civil penalty of \$4500 for failing to comply with a directive. (*Id.* at 2.) The Penalty Matrix further provides:

The entire penalty is imposed in all cases. * * *. A stay of some portion of a penalty is within the sole discretion of the board or the division acting on the board's behalf for purposes of settling cases prior to hearing.

(*Id.* at 1.)

CONCLUSIONS OF LAW

1. Mr. Nelson failed to comply with the payment terms of a Consent Order (BCD Case C2022-0161). The Board should reinstate the previously suspended civil penalties from that Consent Order and assess an additional civil penalty for the violation of ORS 455.450(1).

2. Between March 19, 2024 and November 1, 2024, Mr. Nelson assisted Winner Electric in its violation of ORS 479.620(1). The Board should assess a civil penalty against Mr. Nelson for his violation of ORS 455.450(2).

3. The Board should also disqualify Mr. Nelson from obtaining any Oregon electrical license for a period of five years. ORS 455.127(2), (3).

OPINION

The Division bears the burden to establish by a preponderance of the evidence that the alleged conduct and violations occurred and that the proposed sanctions are warranted. *See* ORS 183.450(2) (“The burden of presenting evidence to support a fact or position in a contested case rests on the proponent of the fact or position”); *Harris v. SAIF*, 292 Or 683, 690 (1982) (general rule regarding allocation of burden of proof is that the burden is on the proponent of a fact or position); *Dixon v. Board of Nursing*, 291 Or App 207, 213 (2018) (preponderance standard of proof generally applies in agency proceedings). Proof by a preponderance of the evidence means that the fact finder is persuaded that the facts asserted are more likely than not true. *Riley Hill General Contractor v. Tandy Corp.*, 303 Or 390, 402 (1987).

1. Violation of a Final Order

In the Amended Notice, the Division contends that Mr. Nelson violated the terms of the Consent Order in BCD Case C2022-0161 by failing to pay the \$10,000 civil penalty.

ORS 455.450 provides, in pertinent part:

A person may not:

(1) Violate, or procure or assist in the violation of, any final order of the Director of the Department of Consumer and Business Services, an advisory board, a state administrative officer or any local appeals board, building official or inspector,

concerning the application of the state building code in a particular case or concerning a license, certificate, registration or other authorization.

As found above, the Consent Order in BCD Case C2022-0161 became final as of November 16, 2023. Pursuant to the terms of that final order, Mr. Nelson was required to pay a civil penalty of \$10,000 on or before January 31, 2024. Mr. Nelson concedes that he has failed to pay the civil penalty amount. Mr. Nelson’s failure to pay this \$10,000 civil penalty constitutes a violation of the final Consent Order and a violation of ORS 455.450(1).

Civil Penalty for Violation of ORS 455.450(1)

The Division has established that Mr. Nelson violated ORS 455.450(1) by failing to comply with the terms of a final order. ORS 455.895(1)(b) authorizes the Board to “impose a civil penalty against a person as provided under ORS 479.995.” ORS 479.995 provides:

The Electrical and Elevator Board may impose a civil penalty for a violation of ORS 479.510 to 479.945 or rules adopted for the administration or enforcement of ORS 479.510 to 479.945 and this section. The board shall impose a civil penalty authorized by this section as provided in ORS 455.895.

OAR 918-001-0036 sets out the guidelines for civil penalties and provides, in part:

(1) Scope and Authority. This rule sets guidelines for assessing a civil penalty under ORS 446.995 & 455.895.

(2) Definitions. For the purposes of this rule:

* * * * *

(b) A “directive” includes, but is not limited to, a notice or warning, citation, order, consent decree or settlement agreement, rule, law, code requirement, or agency interpretation.

(c) “Pattern of violation” means two or more prior violations during a five-year period of any provision of ORS Chapter 446, 447, 455, 460, 479, 480, or 693, or the state building code as defined in 455.010, whether or not a penalty was assessed. A pattern of violation is calculated within a five-year period from the date of the latest violation.

* * * * *

(4) Civil penalties may be assessed by a board, the Director, or a board’s designee acting as agent for a board. A board or the Director may take into account any appropriate factors, including previous directives, in determining the penalty amount or conditions within an order. The statutorily defined maximum penalty may only be assessed upon a finding of a pattern of violation.

* * * * *

(6) The Director may, subject to approval of a board, develop a penalty matrix for the board's use to promote equity and uniformity in proposing the amount and terms of civil penalties and conditions under which the penalties may be modified based on the circumstances in individual cases.

As set out above, the Division's Civil Penalty Matrix, Exhibit A18, accounts for the nature of the violation and the number of violations committed within five years of the date of the violation(s) at issue. As pertinent here, where the violation is for the failure to comply with a directive and there is a pattern of violations in the five-year period, the Board assesses a civil penalty of \$4,500. *Id.*

Because Mr. Nelson's violation of ORS 455.450(1) occurred within five years of the violations adjudicated in BCD Case C2022-00161, this violation of ORS 455.450(1) is among a pattern of violations within the meaning of OAR 918-001-0036(2)(a). This entitles the Division and/or Board to assess the statutorily authorized maximum penalty. OAR 918-001-0036(4). Accordingly, Mr. Nelson is subject to an increased civil penalty of \$4,500 for his failure to comply with the terms of the Consent Order.

Reinstatement of the \$14,000 Civil Penalty

Additionally, as set out in the Consent Order, Mr. Nelson's failure to comply with the terms of the Consent Order (or any other violation of the Division's statutes and rules) within five years after the Consent Order became final on November 16, 2023, results in the entire \$24,000 civil penalty, including the previously suspended \$14,000, to become due and payable.

Accordingly, Mr. Nelson's violation of the Consent Order and violation of ORS 455.450(1) also results in the reinstatement of the previously suspended civil penalty of \$14,000.

2. Assisting Winner Electric to Engage in Electrical Contractor Business Without a Valid Electrical Contractor's License

In the Amended Notice, the Division also alleges that, from at least March 19, 2024 through at least November 1, 2024, Mr. Nelson violated ORS 455.450(2) by assisting Winner Electric to engage in electrical contractor business without an electrical contractor's license in violation of ORS 479.620(1). The Division contends that, as Winner Electric's owner, shareholder, president, secretary, and registered agent, Mr. Nelson had an obligation to remove Winner Electric's website from the internet once Winner Electric's electrical contractor license was revoked on January 31, 2024. The Division contends that because Winner Electric continued to advertise electrical installations after its electrical contractor's license was revoked, Winner Electric violated ORS 479.620(1).

ORS 455.450(2) states that a person may not:

Engage in, or procure or assist any other person to engage in, any conduct or activity for which a permit, label, license, certificate, registration or other formal authorization is required by any specialty code, any provision of ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 446.566 to 446.646, 446.666 to 446.746, 479.510 to 479.945, 479.950 and 480.510 to 480.670, this chapter or ORS chapter 447, 460 or 693, or any rule adopted or order issued for the administration and enforcement of those provisions, without first having obtained such permit, label, license, certificate, registration or other formal authorization.

ORS 479.620 addresses the licensing requirement and prohibits electrical installations by unlicensed persons. The statute provides in pertinent part:

Subject to ORS 479.540,⁴ a person may not:

(1) Without an electrical contractor’s license, engage in the business of making electrical installations, *advertise as or otherwise purport to be licensed to make electrical installations or purport to be acting as a business that makes electrical installations.*

Emphasis added. “Electrical installations” are defined in ORS 479.530(10) as follows:

“Electrical installations” means the construction or installation of electrical wiring and the permanent attachment or installation of electrical products in or on any structure that is not itself an electrical product. “Electrical installation” also means the maintenance or repair of installed electrical wiring and permanently attached electrical products. “Electrical installation” does not include an oil module.

“Electrical product” is defined in ORS 479.530(11) to mean “any electrical equipment, material, device or apparatus that, except as provided in ORS 479.540, requires a license or permit to install and either conveys or is operated by electrical current.” “Equipment” is defined in ORS 479.530(12) as “any material, fittings, devices, appliances, fixtures, apparatus or the like that are used as part of or in connection with an electrical installation.”

Additionally, OAR 918-030-0010(8) defines the phrase “engaging in the business” as follows:

For purposes of ORS 447.040, 479.620, 480.630 and any other license regulated by ORS chapter 455, “engaging in the business” means *to advertise or solicit, contract or agree to perform, or to perform, work for which a license or permit is required under Oregon law, including but not limited to a single instance.*

Emphasis added.

⁴ ORS 479.540 sets out exemptions to the requirement to obtain a license to make installation, none of which are applicable in this case.

There is no dispute that light fixtures, electrical panels, electrical circuits, electrical wiring, and backup generators are “electrical products” under ORS 479.530(11). Similarly, there is no dispute that the installation, maintenance, or repair of light fixtures, electrical panels, electrical circuits, electrical wiring, and backup generators constitutes “electrical installations” under ORS 479.540(10). At issue in this case is whether, by maintaining its internet website offering lighting, electrical panel, and standby generator services after January 31, 2024, Winner Electric advertised or otherwise purported to engage in a business that makes electrical installations in violation of ORS 479.620(1). If Winner Electric did so, then Mr. Nelson, as the sole owner, principal and agent of Winner Electric, violated ORS 455.450(2) by assisting with and participating in Winner Electric’s violation.

At hearing, Mr. Nelson argued that Winner Electric’s website does not specifically reference the “installation” of electrical products and equipment and therefore does not run afoul of ORS 479.620(1). This contention is not persuasive. The website indicates that Winner Electric offers residential and commercial services, including “whole house rewire,” changing and replacing lighting fixtures, changing and replacing electrical panels.⁵ Any reasonable and objective person viewing and reading Winner Electric’s website would construe Winner Electric as a business that does electrical installations as defined in ORS 479.530(10)⁶ and view the website as an advertisement or solicitation for the same.

Mr. Nelson also argued that, because he updated Winner Electric’s website at some point in 2024 to reference Merritt Electric, and because Winner Electric has a subcontractor agreement with Merritt Electric, Winner Electric is not purporting to engage in the business of making electrical installations. This contention also lacks merit. The updated website describes Winner Electric as “a Division of Merrill Electric.”⁷ When a business describes itself as a “division” of another business, that generally means the former business is a part of, or segment of, the latter business, with the latter serving as the parent company. Thus, as written, the updated website indicates that Winner Electric is a part of Merrill Electric and suggests that Merrill Electric owns Winner Electric. The Winner Electric website fails to accurately portray the contractual relationship between Winner Electric and Merrill Electric when it describes Winner Electric as a division of Merrill Electric. There is no mention of the fact that Winner Electric and Merrill Electric are separate companies operating under separate ownership. A reasonable and objective person would take from this description that Winner Electric would be performing the electrical installation work advertised on the website.

Consequently, the evidence establishes that, during the period of March 19, 2024 through at least November 2, 2024, Winner Electric’s website advertised electrical installations and portrayed Winner Electric as a business that was licensed to make electrical installations, when in fact Winner Electric was not licensed to do so. The Division has proven that Winner Electric violated ORS 479.620(1). The Division has also proven that Mr. Nelson, the company’s owner

⁵ See, e.g., Ex. A16 at 40, Ex. A17 at 1.

⁶ ORS 479.530(10) states, “‘Electrical installation’ also means the maintenance or repair of installed electrical wiring.”

⁷ Ex. A17 at 1, 2.

and operator, assisted Winner Electric to violate ORS 479.620(1) by failing to remove Winner Electric's website advertising electrical installations by January 31, 2024. In assisting Winner Electric in this manner, Mr. Nelson violated ORS 455.450(2).

The fact that Winner Electric subcontracted its electrical installation work out to Merrill Electric in 2024 does not absolve Winner Electric from the violation of ORS 479.620(1) or Mr. Nelson from the violation of ORS 455.450(2). As noted above, the law prohibits unlicensed businesses from purporting to act as a business that makes electrical installations. The Division's rules define engaging in the business to include advertising, soliciting, contracting, or agreeing to perform work for which a license is required. OAR 918-030-0010(8). By speaking with customers on Winner Electric's behalf, preparing the written estimates for the cost of the service, issuing the invoice, and collecting payments, Mr. Nelson assisted Winner Electric to engage in the business of making electrical installations without an electrical contractor license in violation of ORS 479.620(1). In assisting Winner Electric in this manner, Mr. Nelson violated ORS 455.450(2).

Civil Penalty for the Violation of ORS 479.450(2)

As discussed previously herein, the Board is authorized under ORS 455.895(1)(b) and ORS 479.995 to impose a civil penalty for Mr. Nelson's violation of ORS 455.450(2). Where there is a pattern of violations, the Board is authorized to increase the civil penalty in accordance with the provisions of OAR 918-001-0036 and the Penalty Matrix.

Mr. Nelson has a pattern of violations during a five-year period. As documented in BCD Case C2022-00161, he repeatedly violated ORS 479.620(2) as well as OAR 918-282-0170(1)(b). In this matter, he violated ORS 479.450(1) and (2). Accordingly, based on the Penalty Matrix, Mr. Nelson is subject to a civil penalty of \$4,500 for the violation of ORS 479.450(2). *See* Exhibit A18 at 2.

3. Disqualification from Licensure

Finally, based on Mr. Nelson's violations, the Division seeks to disqualify him from obtaining any Oregon electrical license for a period of five years.

ORS 455.127 provides:

(1) As used in this section, "person" includes individuals, corporations, associations, firms, partnerships, limited liability companies, joint stock companies, public agencies and an owner or holder of a direct or indirect interest in a corporation, association, firm, partnership, limited liability company or joint stock company.

(2) The Director of the Department of Consumer and Business Services, the Department of Consumer and Business Services or an appropriate advisory board may disqualify a person from obtaining or renewing a license, registration, certificate or certification if the person:

(a) Is or has been subject to civil penalties, revocation, cancellation or suspension of a license, registration, certificate or certification or other sanction by the director, department or an advisory board; or

(b) Is or has been directly involved in an act for which the director, department or an advisory board has levied civil penalties, revoked, canceled or suspended a license, registration, certificate or certification or imposed other sanction while the person served as a principal, director, officer, owner, majority shareholder, member or manager of a limited liability company or in another capacity with direct or indirect control over another business.

(3) A disqualification under subsection (2) of this section shall be for a period determined by the director, department or appropriate advisory board by rule, not to exceed five years. If a person applies for reinstatement of a revoked license, registration, certificate or certification after the period of disqualification, the person must meet the qualifications for initial issuance of the license, registration, certificate or certification.

See also OAR 918-001-0034(1).

Because Mr. Nelson is subject to civil penalties in this matter and was previously subject to civil penalties and license revocation in BCD Case C2022-0161, Board is entitled to disqualify him from obtaining any other Oregon electrical license for a period of five years pursuant to ORS 455.127(2) and (3) and OAR 918-001-0034(1) upon entry of a final order in this case.

ORDER

~~*I propose the Building Codes Division issue the following order:*~~ **After considering all of the above, the Electrical and Elevator Board issues the following order:**

- 1. Paul Nelson shall pay a total civil penalty of \$9,000 for violations of ORS 455.450(1) and ORS 455.450(2).**
- 2. Paul Nelson's suspended civil penalty of \$14,000, from the Final Order issued in Division case number C2022-0161, is reinstated.**
- 3. Paul Nelson is disqualified from obtaining an Oregon electrical license for a period of five year upon the date of entry of a final order in this matter.**

~~For the violation of ORS 455.450(1), Mr. Nelson is liable for a civil penalty of \$4,500.~~

~~In addition, Mr. Nelson's suspended civil penalty of \$14,000 from the Consent Order in BCD Case C2022-00161 is reinstated.~~

~~For the violation of ORS 455.450(2), Mr. Nelson is liable for a civil penalty of \$4,500.~~

~~Mr. Nelson is also disqualified from obtaining an Oregon electrical license for a period of five years upon the date of entry of a final order in this matter.~~

_____ for
Chair
Electrical and Elevator Board
State of Oregon

Date: _____

APPEAL PROCEDURE

This is the Administrative Law Judge's Proposed Order. You have the right to file written exceptions and argument to be considered per OAR 137-003-0650. Your exceptions and argument must be received within 20 calendar days after the service date of this Proposed Order. Send them to:

Building Codes Division
Manager, Andrea Simmons
PO Box 14470
Salem, OR 97309-0404

SERVICEMEMBERS' CIVIL RELIEF ACT

Unless otherwise stated in this order, the Office of Administrative Hearings (OAH) has no reason to believe that a party to this proceeding is subject to the Servicemembers' Civil Relief Act (SCRA). If a party to this proceeding is a servicemember who did not appear for the hearing, within the servicemember's period of service, or 90 days after their termination of service, that party should immediately contact the agency to address any rights they may have under the SCRA.

CERTIFICATE OF MAILING

On March 13, 2025, I mailed the foregoing PROPOSED ORDER issued on this date in OAH Case No. 2024-ABC-06704.

By: Electronic and Certified Mail

Terence S McLaughlin
PO Box 672
Carlton OR 97111
Email: tsm123@comcast.net

By: Electronic Mail

Paul M. Nelson

[REDACTED]
[REDACTED]
[REDACTED]
Email: [REDACTED]

Winner Electric Construction, Inc.
27385 SE Fairmont DR
Boring OR 97009
Email: tsm123@comcast.net

Michael Mayorga-Hamilton
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Building Codes Division
PO Box 14470
Salem OR 97309
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Kelly K. Routt
Assistant Attorney General
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1162 Court St NE
Salem OR 97301
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Anesia N Valihov
Hearing Coordinator

State of Oregon

Board memo

Building Codes Division

May 22, 2025

To: Electrical and Elevator Board

From: Michael Mayorga-Hamilton, contested case representative, Licensing Compliance Section

Subject: Consent orders for cases resolved on behalf of the Electrical and Elevator Board

Action requested:

For the Board to consider the adoption of consent orders negotiated by the Division on their behalf and to issue final orders.

Background:

The Board, through Division staff, implemented a civil penalty matrix for electrical violations, which establishes civil penalties based upon the type and number of violations committed by a company or individual. The penalty matrix further provides that a stay of some portion of a penalty is within the sole discretion of the Board or the Division acting on the Board's behalf for purposes of settling cases without having to go to hearing.

The Licensing Compliance Section, acting on behalf of the Board, has entered into consent agreements in **two (2) cases** since the Board's March 27, 2025, meeting. In the case involving a civil penalty, the penalty amounts assessed, amounts suspended, and amounts due and payable are consistent with the Board's penalty matrix. A copy of the consent orders and a chart with a summary of the cases for Board approval have been included for your review in your board packet.

The consent orders contain the following standard conditions:

- Respondent agrees to fully cooperate with the Division's enforcement efforts.
- Respondent understands that further enforcement action may be taken for any other violations.
- Respondent understands that failure to comply with the consent order may be used as a basis for the denial, suspension, revocation, or conditioning of a license, certificate, or registration.

A chart of a summary of all final orders by default since the last Board meeting has also been included in your packet, but these final orders do not require a vote for approval.

All cases involve first time violators, unless otherwise noted in the chart. Please let me know if you have any questions.

Electrical and Elevator Board Report for May 22, 2025

Summary Report of Consent Orders

Case #	Name	Violation(s)	Location	Date of Violation	Civil Penalty		Other
C2020-0121	Bazer Custom Homes LLC	Installed electrical wiring, wall heaters, light fixtures, electrical panels, switches, receptacles, NM cable, baseboard heater, fan, and a twenty amp circuit. <ul style="list-style-type: none"> • No electrical contractor's license. • Allowed unlicensed electrical installations. • No electrical permit. 	Springfield	October 2018 to March 2019	Assessed: Imposed: Suspended:	\$6,000 \$1,500 \$4,500	See related plumbing case C2024-0009.

Summary Report of License Actions

Case #	Name	Violation(s)	Location	Date of Violation	License Action	Civil Penalty		Other
C2024-0180	Elijah Crutchfield	<ul style="list-style-type: none"> • Cheated on examination 	Salem	September 2024	1-year Disqualification	Assessed: Imposed: Suspended:	N/A	

BEFORE THE ELECTRICAL AND ELEVATOR BOARD OF THE STATE OF OREGON

IN THE MATTER OF:

CONSENT ORDER

**BAZER CUSTOM HOMES, LLC,
A DOMESTIC LIMITED LIABILITY
COMPANY,**

RESPONDENT.

BCD CASE C2020-0121

INTRODUCTION

The Building Codes Division (“Division”) conducted an investigation on behalf of the Electrical and Elevator Board of the State of Oregon ("Board") and determined that Bazer Custom Homes, LLC (“Respondent”) violated certain provisions of the Division’s statutes and administrative rules as identified below.

The parties agree to resolve this matter without a hearing. Respondent understands that Respondent has the right to a contested case hearing under the Administrative Procedures Act, Oregon Revised Statutes (“ORS”) chapter 183, and Respondent fully and finally waives the right to a hearing and any judicial review therefrom by the signing of this Consent Order.

FINDINGS OF FACT

1. On or about October 27, 2014, Respondent registered with the Oregon Secretary of State (“SOS”) as a domestic limited liability company.
2. At all relevant times, Ben Bazer¹ (“Bazer”) was registered with the Oregon SOS as Respondent’s manager and organizer.
3. Respondent held Oregon Construction Contractors Board (“CCB”) license number 215495 from on or about August 14, 2017, through on or about its expiration date of August 14,

¹ See Division related cases C2020-0120 and C2024-0007 against Bazer for electrical and plumbing violations, respectively.

1 2021.

2 4. At all relevant times, Bazer was registered with the CCB as Respondent's responsible
3 managing individual owner and member.

4 5. At all relevant times, the following persons worked for Respondent and Bazer on residential
5 renovation projects:

6 a. Adam Johnston² ("Johnston") worked for Respondent from approximately June 2017
7 through June 2020.

8 i. At all relevant times, Johnston was responsible for performing Respondent's
9 carpentry work and electrical installations.

10 ii. At no relevant time did Johnston hold a valid Oregon supervising electrician
11 license, journeyman electrician license, or limited residential electrician
12 ("LRE") license.

13 b. Firlle Dean Estep³ ("Estep") worked for Respondent from approximately July 2018
14 through approximately March 2019.

15 i. At all relevant times, Estep worked for Respondent as a laborer.

16 ii. At no relevant time did Estep hold a valid Oregon supervising electrician
17 license, journeyman electrician license, or LRE license.

18 6. At all relevant times, Bazer, concurrent with his position at Respondent, served as the
19 manager of 2663 31st Street, LLC.

20 7. On or about February 28, 2018, 2663 31st Street, LLC purchased a residential property
21 located at 2663 31st Street, Springfield, Oregon ("31st street property"), and sold it on or
22 about December 30, 2019.

23 8. In or around 2018 and 2019, Johnston and Estep, acting on behalf of Respondent and Bazer,
24 performed electrical work at the 31st street property.

25

² See Division related case C2020-0071 against Johnston.

³ See Division related case C2020-0122 against Estep.

1 a. Johnston performed the following electrical installations:

2 i. Installed new electrical wiring;

3 ii. Installed new electric Cadet wall heaters with the assistance of Estep;

4 iii. Installed new overhead lighting fixtures;

5 iv. Installed new electrical panels;

6 v. Installed wall switches, electrical receptacles;

7 vi. Installed new non-metallic (“NM”) cable;

8 vii. Installed a baseboard-heating unit;

9 viii. Installed a fan; and

10 ix. Installed twenty-amp circuits for light switches.

11 b. Estep performed the following electrical installations:

12 i. Installed new electrical wiring;

13 ii. Installed lighting fixtures;

14 iii. Installed receptacles; and

15 iv. Installed electrical Cadet heaters with the assistance of Johnston.

16 9. At no relevant time did Respondent hold a valid Oregon electrical contractor license.

17 10. At no relevant time did Respondent obtain a permit prior to performing the electrical work at
18 the 31st street property.

19 **APPLICABLE LAW**

20 1. Definitions for terms used in this Consent Order may be found in ORS 183.310, ORS
21 455.010, ORS 479.530, ORS 479.905, Oregon Administrative Rule (“OAR”) 918-001-0005,
22 OAR 918-030-0010, and OAR 918-251-0090.

23 2. Under ORS 479.530(10), “electrical installations” means the construction or installation of
24 electrical wiring and the permanent attachment or installation of electrical products in or on
25 any structure that is not itself an electrical product. “Electrical installation” also means the

1 maintenance or repair of installed electrical wiring and permanently attached electrical
2 products.

- 3 3. Under ORS 479.530(11), “electrical product” means any electrical equipment, material,
4 device or apparatus that, except as provided in ORS 479.540, requires a license or permit to
5 install and either conveys or is operated by electrical current.
- 6 4. Under ORS 479.540(1), except as otherwise provided in this subsection, a person is not
7 required to obtain a license to make an electrical installation on a residential or farm
8 property that is owned by the person or a member of the person’s immediate family if the
9 property is not intended for sale, exchange, lease or rent.
- 10 5. Under ORS 479.540(1)(a), the exemption established for a person under this subsection does
11 not exempt the work performed by the person from having to comply with the requirements
12 for such work under ORS chapter 455 or this chapter and rules adopted thereunder.
- 13 6. Under ORS 479.540(1)(b), if the property is a building used as residence and is for rent,
14 lease, sale or exchange, this subsection establishes an exemption for work on, alterations to
15 or replacement of parts of electrical installations as necessary for maintenance of the
16 existing electrical installations on that property, but does not exempt new electrical
17 installations or substantial alterations to existing electrical installations on that property. As
18 used in this paragraph, “new electrical installations or substantial alterations” does not
19 include the replacement of an existing garbage disposal, dishwasher or electric hot water
20 heater with a similar appliance of 30 amps or less, single phase, by a landlord, landlord’s
21 agent or employee of the landlord or landlord’s agent, See Residential Property Owner
22 Scope of Work.
- 23 7. Under OAR 918-261-0040(1), for the purposes of ORS 479.540(1), the owner of property to
24 which this exemption applies shall be a natural person and not a business entity such as a
25 corporation or partnership.

- 1 8. Under ORS 479.550(1), no person shall work on any new electrical installation for which a
2 permit has not been issued.
- 3 9. Under ORS 479.620(1), a person who does not hold an electrical contractor license may not
4 engage in the business of making electrical installations, advertise as or otherwise purport to
5 be licensed to make electrical installations or purport to be acting as a business that makes
6 electrical installations.
- 7 10. OAR 918-030-0010(8) states that for purposes of ORS 447.040, 479.620, 480.630, and any
8 other license regulated by ORS chapter 455, “engaging in the business” means to advertise
9 or solicit, contract or agree to perform, or to perform work for which a license or permit is
10 required under Oregon law, including but not limited to a single instance.
- 11 11. Under ORS 479.620(3), except as provided in ORS 479.620(5), a person may not make any
12 electrical installation without a supervising or journeyman electrician’s license.
- 13 12. Under ORS 479.620(5), a person may not make any electrical installation on a single or
14 multifamily dwelling unit not exceeding three floors above grade, as provided in ORS
15 479.630(14), without a limited residential electrician’s license.
- 16 13. Under OAR 918-282-0120(1), no person or entity shall allow any individual to perform
17 electrical work for which the individual is not properly registered or licensed.

18 **CONCLUSIONS OF LAW**

- 19 1. Electrical wiring, wall heaters, lighting fixtures, electrical panels, switches, receptacles, NM
20 cable, baseboard heater, fan, and a twenty amp circuit constitute electrical products under
21 ORS 479.530(11).
- 22 2. Installing electrical wiring, wall heaters, lighting fixtures, electrical panels, switches,
23 receptacles, NM cable, baseboard heater, fan, and a twenty amp circuit all constitute
24 electrical installations under ORS 479.530(10).
- 25

- 1 3. By performing the foregoing electrical installations at the 31st street property, without a
2 supervising electrician license, journeyman electrician license, or LRE license, Johnston and
3 Estep violated ORS 479.620(3) and (5).
- 4 4. By permitting Johnston and Estep to perform the foregoing electrical installations at the 31st
5 street property , on behalf of Respondent and Bazer, Respondent engaged in the business of
6 an electrical contractor as defined in OAR 918-030-0010(8).
- 7 5. By engaging in the business of electrical contractor at the 31st street property without a
8 valid Oregon electrical contractor's license, Respondent violated ORS 479.620(1).
- 9 6. By allowing Johnston and Estep to perform the foregoing electrical installations at the 31st
10 street property , Respondent violated OAR 918-282-0120(1).
- 11 7. By performing the electrical installations at the 31st street property without obtaining an
12 electrical permit, Respondent violated ORS 479.550(1).

13 ORDER

- 14 1. The Board hereby assesses a total civil penalty of \$6,000.00 against Respondent for
15 violating ORS 479.620(1), OAR 918-282-0120(1), and ORS 479.550(1) as follows:
 - 16 a. \$4,500.00 of the total civil penalty will be suspended for a period of five years if
17 there is compliance with all other terms of this Consent Order.
 - 18 b. Respondent agrees to pay the remaining \$1,500.00 of the civil penalty in a lump sum
19 payment. Respondent's payment must be received no later than the 25th day of the
20 month following the month in which this Consent Order is signed by both parties(*An
21 invoice may be provided to Respondent after this Consent Order is signed by both
22 parties. Respondent understands timely payments must be made even if no invoice is
23 ever received.*) Checks should be made out to the Department of Consumer and
24 Business Services. **Payment shall be mailed to Department of Consumer and
25 Business Services, Fiscal Services Section, P.O. Box 14610, Salem, OR 97309-**

1 **0445. For payment questions and credit card payments call 503-947-7891.**

2 ***NOTE: If you fail to make your lump sum payment as stated in this signed***
3 ***Consent Order, this account may be assigned to the Department of Justice,***
4 ***Department of Revenue, or a private collection agency. You will be responsible***
5 ***for any court costs, attorney fees, any other necessary fees related to the collection***
6 ***of this debt, and any interest or penalties accrued. This debt may also appear on***
7 ***future credit reports.***

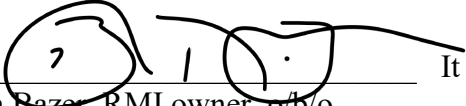
- 8 c. Respondent understands the suspended civil penalty (\$4,500.00) will be considered
9 satisfied five years after this Consent Order becomes a final order, provided
10 Respondent complies with its terms and has not committed any further violations of
11 the Division’s statutes and rules within that five-year period. Respondent
12 understands and agrees that upon a showing that Respondent has not complied with
13 the terms of this Consent Order or that Respondent has committed any further
14 violations of the Division’s statutes or rules within the five-year period, the entire
15 civil penalty, including any suspended amount, will become due and payable. Failure
16 to comply with this Consent Order includes, but is not limited to, failure to pay the
17 civil penalty amount due by the due date.
- 18 2. Respondent agrees to fully cooperate with the Division’s enforcement efforts in other cases
19 that rely on the facts underlying this case. Cooperation may include, but may not be limited
20 to, making sworn statements or testifying in administrative hearings.
- 21 3. Respondent understands that further enforcement action may be taken for any violation of
22 the Division’s statutes or rules not alleged in this Consent Order, whether committed before
23 or after the execution of this Consent Order, and for any violation of the terms of this
24 Consent Order.
- 25 4. Respondent understands that failure to comply with this Consent Order may be used as a
 basis for the denial of future license, certificate, registration, or other applications, or for the
 refusal to renew the same; for the suspension, revocation, or conditioning of a license,
 certificate, or registration issued by the Division or other state agencies; and/or for any other

1 reason provided for in law.

2 5. Respondent understands that this Consent Order is a public record.

3 6. Respondent has read and fully understands the terms of this Consent Order, freely and
4 voluntarily consents to the entry of this Consent Order without any force or duress, and
5 expressly waives all rights to hearing or judicial review in this matter.

6 7. Respondent understands that, upon signature of all parties, this Consent Order will be a
7 Final Order.

8  It is so agreed this 12 day of MAY, 2025.
9 Ben Bazer, RMI owner, o/b/o
10 Bazer Custom Homes, LLC

11
12 _____ for It is so agreed this ____ day of _____, 2025.
13 Chair
14 Electrical and Elevator Board
15 State of Oregon
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BEFORE THE ELECTRICAL AND ELEVATOR BOARD OF THE STATE OF OREGON

IN THE MATTER OF:

CONSENT ORDER

**ELIJAH CRUTCHFIELD,
AN INDIVIDUAL,**

RESPONDENT.

BCD CASE C2024-0180

INTRODUCTION

The Building Codes Division (“Division”) conducted an investigation on behalf of the Electrical and Elevator Board of the State of Oregon (“Board”) and determined that Elijah Crutchfield (“Respondent”) violated certain provisions of the Division’s statutes and administrative rules as identified below.

The parties agree to resolve this matter without a hearing. Respondent understands that Respondent has the right to a contested case hearing under the Administrative Procedures Act, Oregon Revised Statutes (“ORS”) chapter 183, and Respondent fully and finally waives the right to a hearing and any judicial review therefrom by the signing of this Consent Order.

FINDINGS OF FACT

1. On or about December 19, 2023, Respondent applied for a general journeyman electrician’s license (“license”).
2. On or about February 19, 2024, Respondent took exam Number 14 for a license at Chemeketa Community College licensing examination location at 4000 Lancaster Drive Northeast, in Salem, Oregon (“testing location”). Respondent scored 65% and failed the exam.
3. On or about March 19, 2024, Respondent reapplied to take his license exam. He took exam number 56 at the testing location on or about April 19, 2024. Respondent scored 69% and

1 failed the exam.

2 4. On or about June 26, 2024, Respondent reapplied to take his license exam. He took exam
3 number 126 at the testing location on or about July 19, 2024. Respondent scored 64% and
4 failed the examination.

5 5. On or about August 27, 2024, Respondent reapplied to take his license exam. He took exam
6 number 160 at the testing location on or about September 12, 2024.

7 6. On or about September 12, 2024, Marilyn Takewo, a test proctor at the testing center
8 observed Respondent copying questions from the exam booklet number 160 into his books
9 that he was permitted to use during the exam. Marilyn tore out and collected the copied
10 questions from Respondent and forwarded the exam and the notes to the Division.

11 7. Respondent's confiscated notes directly relate to exam numbers 56, 126, 160 and 14 exams
12 mentioned above which includes, but is not limited to:

13 a. The following notes directly correlate to exam 56:

14 i. "instrument tray cable not permitted on circuits @_v @_ (unreadable letter)
15 240v5a." closely matches question 13 "Instrumentation tray cable shall not be
16 installed on circuits operating more than _volts or more than _amps. A. 150 5
17 B. 240, 15 C. 150, 10 D. 277, 5".

18 ii. "class 3 cable has a v rating not less _v. 60" closely resembles question 10
19 "Class 3 cables shall have a voltage rating of not less than _volts. A. 300 B.
20 60 C. 120 and D. 150."

21 iii. "unity power factor one kilowatt = _VA" parallels question 3 "At unity power
22 factor, one kilowatt equals __VA. A. 85 B. 950 C. 1,250 D. 1,000"

23 iv. "digital meters measure what value of the AC wave form mid peak ave
24 RMS." resembles question 16 "Digital voltmeters typically measure what
25 value of the AC waveform voltage? A. Average B. Peak C. Minimum D.

1 Effective (RMS).”

2 v. “notify division of signing sup in # of days 14 10 5 3” is close to question 30

3 “Electrical contractors shall notify the division in writing who their signing
4 supervising electrician is within ___ of entering into a working relationship or
5 termination of that relationship. A. 3 days B. 5 days C. 14 days D. 10 days.”

6 b. The following note directly correlates to exam 56 and 126: “min illumination level at
7 service equip. in foot candles (sp) 15 10 5 none.” Resembles Question 26 on exam
8 56 and question 23 on exam 126. “Minimum illumination level required at service
9 equipment shall be an average of ___footcandles. A. 10 B. 15 C. 5 or D. None of the
10 above.”

11 c. The following notes directly correlates to exam 160:

12 i. “Exempt Oregon electrical products” mirrors question 17 on exam 160 which
13 reads “ Which of the following electrical products is exempt from Oregon
14 electrical produce certification requirements? A. commercial electrical air
15 conditioner B. 800 amp motor control center in a manufacturing plant C.
16 commercial signs D. all of the above are exempt.”

17 ii. “Two or more GEC are bonded are considered listed approved identified
18 single” mirrors question 13 of exam 160 “Where two or more grounding
19 electrodes are bonded together they are considered to be ___ electrode system.
20 A. a listed B. an identified C. an approved D. a single.”

21 d. The following notes directly correlates to exam 126:

22 i. “Where signs use flex or tubing, a bonding conductor is required. . .stranded
23 wire, routed externally attached to conduit, not smaller than 12, ran
24 externally separate of conduit” mirrors question number 52 “Where listed
25 signs use, flexible nonmetallic conduit or tubing a bonding conductor is

1 requires, _____. A. Stranded wire B. the bonding conductor shall be routed
2 externally and attached to the conduit or tubing C. not smaller than No. 12
3 copper D. the bonding conductor shall be installed separate and remote from
4 the nonmetallic conduit.”

5 ii. “PV negative leads conductor color black grey continuous white green and
6 white stripes” matches question 4 which reads “An ungrounded PV array has
7 PV source circuits that consist of negative and positive leads. Which of the
8 following may be used as a conductor color for the negative lead? A. Black
9 B. A continuous grey outer finish C. A continuous white outer finish D.
10 Green with white stripes.”

11 e. The following notes directly relate to exam 14 and 126:

12 i. “Insulator has fewer what - free electrons” is similar to question 42 of Exam
13 14 and question 10 of exam 126 which reads” An insulator has fewer
14 ____ than a conductor. A. neutrons B. Free electrons C. protons D. planetary
15 electrons.

16 **APPLICABLE LAW**

- 17 1. The scope of Oregon Administrative Rule (“OAR”) 918-001-0040(1)(a) applies to persons
18 seeking Division licensing or certification under the boiler and pressure vessel, plumbing,
19 electrical, or manufactured structures laws and rules.
- 20 2. Pursuant to OAR 918-001-0040(2), in addition to any passing grade requirement, a person
21 fails an examination provided, authorized or required by the division or one of its boards if
22 the person cheats in connection with an examination.
- 23 3. Pursuant to OAR 918-001-0040(2)(b) a person "cheats in connection with the examination"
24 if the person applies for or takes an examination and directly or indirectly uses unauthorized
25 notes, devices or information during an examination.

- 1 4. Under OAR 918-001-0040(5) notwithstanding any rules to the contrary allowing a person to
2 retake an examination, a person who fails an examination as provided in this rule shall not
3 be allowed to take any division or division-related examination for one year following the
4 notice of failure of the examination or final order determining that the person failed the
5 examination.
- 6 5. Under ORS 455.125 (2)(a) the Board may deny a license if the person fails to comply with a
7 provision of 479.510 to 479.945 or ORS Chapter 455 or with any rule adopted under those
8 statutes.
- 9 6. Under ORS 455.127(2)(a), the Director of the Department of Consumer and Business
10 Services, the Department of Consumer and Business Services or an appropriate advisory
11 board may disqualify a person from obtaining or renewing a license, registration, certificate
12 or certification if the person is or has been subject to civil penalties, revocation, cancellation
13 or suspension of a license, registration, certificate or certification or other sanction by the
14 director, department or an advisory board.
- 15 7. Under ORS 455.127(3), a disqualification under subsection (2) of this section shall be for a
16 period determined by the director, department or appropriate advisory board by rule, not to
17 exceed five years. If a person applies for reinstatement of a revoked license, registration,
18 certificate or certification after the period of disqualification, the person must meet the
19 qualifications for initial issuance of the license, registration, certificate or certification.
- 20 8. Under OAR 918-001-0034(1), disqualification under ORS 455.127(2) shall be for a period
21 of five years except as provided in subsection (2) of this rule.
- 22 9. Under OAR 918-001-0034(2), the Director of the Department of Consumer and Business
23 Services or an appropriate advisory board may, in its discretion, order a disqualification of
24 fewer than five years. In doing so the Director of the Department of Consumer and Business
25

1 Services or appropriate advisory board may, but is not required to, consider any mitigating
2 factors.

3 **CONCLUSIONS OF LAW**

- 4 1. As a person seeking Division licensure under electrical laws and rules, the entire scope of
5 OAR 918-001-0040 applies to Respondent as described under OAR 918-001-0040(1)(a),
- 6 2. Under OAR 918-001-0040(2)(b), Respondent failed the exam by cheating on the September
7 12, 2024 exam by having unauthorized notes and by copying the substance of exam
8 questions in one of his reference books allowed to be taken into the exam room at the time
9 of the exam.
- 10 3. Failing to comply with the OAR 918-001-0040, which is adopted pursuant to ORS Chapter
11 455 and ORS 479.510 to 479.945, allows the Board to deny a general journeyman's
12 electricians license under ORS 455.125(2)(a).
- 13 4. Because respondent failed his exam under the provisions of OAR 918-001-0040(2), the
14 Board may deny Respondent's general journeyman electrician reapplication.
- 15 5. Under ORS 455.127(2)(a) and (3), denying a license application is a sanction taken by the
16 Board and thereby allows the Board to disqualify a person from obtaining a license for a
17 period of up to five years.
- 18 6. Under OAR 918-001-0034(2) and OAR 918-001-0040(5), the Board, in its discretion, has
19 determined that disqualification due to cheating on an exam shall be for a period of one year.

20 **ORDER**

- 21 1. The Board hereby disqualifies Respondent from taking any Division or Division-related
22 examination for a period of one year from the date Respondent was found cheating on his
23 examination, September 12, 2024.
- 24 2. After the one-year suspension period, if Respondent chooses to take any Division or
25 Division-related examination, Respondent must comply with the following conditions for a

1 period of five years from the date this consent order is signed by all parties:

2 a. Respondent shall apply to retake the test and pay the appropriate fee no earlier than
3 September 13, 2025.

4 b. Respondent will schedule to take the exam at the Division's Salem office located at
5 1535 Edgewater Street NW, Salem, Oregon.

6 c. Respondent agrees to not have any unauthorized notes or other materials and devices
7 with internet and picture taking capabilities such as cell phone in the exam room.

8 d. Respondent shall allow a representative of the Division to inspect any materials and
9 belongings Respondent brings into the testing facility both before and after the
10 examination.

11 e. If Respondent fails the exam, Respondent shall reapply to test in accordance with
12 Division rules and will retake the exam following the provisions of this section of
13 the Order.

14 3. Respondent agrees to fully cooperate with the Division's enforcement efforts in other cases
15 that rely on the facts underlying this case. Cooperation may include, but may not be limited
16 to, making sworn statements or testifying in administrative hearings.

17 4. Respondent understands that further enforcement action may be taken for any violation of
18 the Division's statutes or rules not alleged in this Consent Order, whether committed before
19 or after the execution of this Consent Order, and for any violation of the terms of this
20 Consent Order.

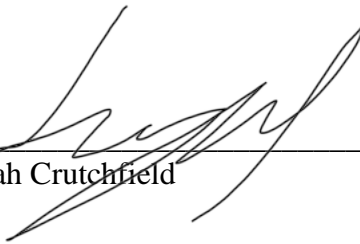
21 5. Respondent understands that failure to comply with this Consent Order may be used as a
22 basis for the disqualification from taking any Division or Division-related examination,
23 denial of future license, certificate, registration, or other applications, or for the refusal to
24 renew the same; for the suspension, revocation, or conditioning of a license, certificate, or
25

1 registration issued by the Division or other state agencies; and/or for any other reason
2 provided for in law.

3 6. Respondent understands that this Consent Order is a public record.

4 7. Respondent has read and fully understands the terms of this Consent Order, freely and
5 voluntarily consents to the entry of this Consent Order without any force or duress, and
6 expressly waives all rights to hearing or judicial review in this matter.

7 8. Respondent understands that, upon signature of all parties, this Consent Order will be a
8 Final Order.

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It is so agreed this 8th day of April, 2025.

Elijah Crutchfield

14 _____ for It is so agreed this ____ day of _____, 2025.

15 Chair
16 Electrical and Elevator Board
17 State of Oregon

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Electrical and Elevator Board Report for May 22, 2025

Summary Report of Final Orders by Default

Case #	Name	Violation(s)	Location	Date of Violation	Civil Penalty	Other
C2024-0185	CR Lighting & Electric Inc.	Installed conduit and electrical conductors. <ul style="list-style-type: none"> • No electrical contractor’s license • Allowing unlicensed electrical installations. • No electrical permit. 	Portland	October 2024	Assessed: \$6,000	
C2024-0194	Christopher Rydman	Installed conduit and electrical conductors. <ul style="list-style-type: none"> • Procured or assisted an unlicensed person to perform electrical installations. 	Portland	October 2024	Assessed: \$2,000	
C2024-0195	Tavien Hancock	Installed conduit and electrical conductors. <ul style="list-style-type: none"> • No supervising electrician license or journeyman electrician license. 	Portland	October 2024	Assessed: \$2,000	
C2024-0196	Brian David Buchanan	Installed conduit and electrical conductors. <ul style="list-style-type: none"> • No supervising electrician license or journeyman electrician license. 	Portland	October 2024	Assessed: \$2,000	

Summary Report of Final Orders by Default

Case #	Name	Violation(s)	Location	Date of Violation	Civil Penalty		Other
C2024-0197	Seth Wayne Ramey	Installed conduit and electrical conductors. • No supervising electrician license or journeyman electrician license.	Portland	October 2024	Assessed:	\$2,000	
C2024-0198	Isaac Matthew Gutierrez	Installed conduit and electrical conductors. • No supervising electrician license or journeyman electrician license.	Portland	October 2024	Assessed:	\$2,000	
C2024-0199	David Van Horssen	Installed conduit and electrical conductors. • No supervising electrician license or journeyman electrician license.	Portland	October 2024	Assessed:	\$2,000	

State of Oregon

Board memo

Building Codes Division

May 22, 2025

To: The Electrical and Elevator Board

From: Michael Mayorga Hamilton, contested case representative, Licensing Compliance Section of the Building Codes Division

Subject: Oregon Court of Appeals Decision regarding Final Order for OAH Case No. 2023-ABC-05780, BCD Case No. C2021-0174, In the Matter of Sean Murphy dba Murphy Family Electric

Action requested:

The Board is not required to take any action on this item.

Background:

On November 9, 2022, the Electrical and Elevator Board (“Board”) of the Building Codes Division (“Division”) issued a Notice of Proposed Assessment of Civil Penalties; Notice of Proposed Reinstatement of Previously Suspended Civil Penalties; Notice of Proposed Suspension of Electrical Contractor License Number C1554; Notice of Proposed Suspension of General Supervising Electrician License Number 6519S; and Notice of Final Order on Default (“Notice”) to Sean Murphy, dba Murphy Family Electric (“Respondent”).

The Division alleged the following violations in the Notice: Respondent violated Oregon Administrative Rule (“OAR”) 918-282-0120(1) three times by allowing an unlicensed person to perform electrical installations; Respondent, as the signing supervising electrician, violated OAR 918-282-0140(2)(f) three times by permitting, either by assent or by failure to prevent, an individual to perform electrical work, for which the individual was not properly licensed for; and Respondent violated ORS 479.550(1) one time by failing to obtain an electrical permit prior to performing an electrical installation. On December 5, 2022, Respondent requested a hearing.

The hearing ultimately took place on July 20, 2023, before Administrative Law Judge (“ALJ”) Elizabeth Jarry at the Office of Administrative Hearings (“OAH”). On September 5, 2023, a Proposed Order was issued. *See* attached Exhibit 1. ALJ Jarry determined that the Division met its burden of establishing that Respondent violated OAR 918-282-0120(1) three times, OAR 918-282-0140(2) three times, and ORS 479.550(1) one time. ALJ Jarry also affirmed that the

Division's proposed civil penalties, license suspensions, and reinstatement of previously suspended civil penalties for these violations was appropriate.

On September 28, 2023, the Division presented a modified proposed final order to the Board that imposed \$21,500.00 penalty, reinstated a previously suspended civil penalty of \$2,750, suspended Respondent's electrical contractor license for two years, and suspended Respondent's general supervising electrical license for two years.¹ The Board unanimously approved the proposed order, attached as Exhibit 1, and Respondent was given 60 days from the date the order was served on him to request judicial review of the Board's final order. Respondent filed a petition for judicial review with the Oregon Court of Appeals on October 23, 2023.

On March 5, 2025, the Oregon Court of Appeals issued an opinion, attached as Exhibit 2, in this matter affirming the Board's decision to suspend Respondent's electrical licenses, impose civil penalties, and reinstate a previous suspended civil penalty. Respondent had thirty-five (35) days to file a petition with the Oregon Supreme Court. Respondent did not file a petition with the Oregon Supreme Court, and the Court of Appeals judgment became final on April 24, 2025.

¹ The modifications to the final order were minor, and did not alter the penalty proposed by ALJ Jarry.

**BEFORE THE ELECTRICAL AND ELEVATOR BOARD OF THE STATE OF
OREGON**

IN THE MATTER OF:)	FINAL ORDER
)	
SEAN MURPHY,)	OAH Case No. 2023-ABC-05780
DBA MURPHY FAMILY ELECTRIC)	Agency Case No. C2021-0174

HISTORY OF THE CASE

On November 9, 2022, the Electrical and Elevator Board of the Building Codes Division (hereinafter referred to as “Division” or “Board”) issued a Notice of Proposed Assessment of Civil Penalties; Notice of Proposed Reinstatement of Previously Suspended Civil Penalties; Notice of Proposed Suspension of Electrical Contractor License Number C1554; Notice of Proposed Suspension of General Supervising Electrician License Number 6519S; Notice of Final Order on Default (Notice) to Sean Murphy, dba Murphy Family Electric. On December 5, 2022, Mr. Murphy requested a hearing.

On January 18, 2023, the Division referred the matter to the Office of Administrative Hearings (OAH). The OAH assigned Senior Administrative Law Judge (ALJ) Elizabeth Jarry to preside at the hearing.

On March 2, 2023, ALJ Jarry held a prehearing conference by telephone. Mr. Murphy appeared without counsel. Assistant Attorney General Jacob Gill represented the Division, and Julia Hier and Michael Mayorga-Hamilton appeared on behalf of the Division. By email after the prehearing conference, ALJ Jarry set a hearing for July 20 and 21, 2023, and set filing deadlines for the submission of witness lists and exhibits.

On or about June 7, 2023, Assistant Attorney General Kelly Routt replaced Mr. Gill as the Division’s attorney of record.

On June 28, 2023, Attorney Megan Daniels filed a Notice of Representation on behalf of Mr. Murphy and requested an extension of the exhibit submission deadline. Also on June 28, 2023, ALJ Jarry granted the unopposed request.

On July 5, 2023, Mr. Murphy filed Respondent’s Motion for Continuance. On July 6, 2023, the Division filed a Response to Respondent’s Motion for Continuance. On July 7, 2023, ALJ Jarry issuing a Ruling on Respondent’s Motion for Continuance, denying the motion.

ALJ Jarry convened a videoconference hearing on July 20, 2023. Ms. Daniels represented Mr. Murphy, who appeared and testified. Ms. Routt represented the Division, and Mr. Mayorga-Hamilton appeared for the Division. The following witnesses testified on behalf of the Division: Jack Maynard, Senior Electrical Inspector for the City of Portland; Bill Schley, homeowner; Celine Lowney, homeowner; Brian Crise, Division Electrical Program Chief; Julia Hier, Division Enforcement Manager; and Curtis Stone, electrician. At the conclusion of the

hearing, ALJ Jarry set a deadline of August 3, 2023, for submission of written closing arguments.

On August 3, 2023, the Division filed its Closing Argument. On August 4, 2023, Mr. Murphy filed his Closing Argument, which included stipulations to findings of fact 1 through 8 in the Notice. Also on August 4, 2023, the Division filed an objection to Mr. Murphy's late submission of his Closing Argument. On August 7, 2023, ALJ Jarry admitted Mr. Murphy's Closing Argument into the record and provided the Division with the opportunity to file a reply brief and to respond to Mr. Murphy's stipulations. On August 8, 2023, the Division agreed to Mr. Murphy's stipulations.¹ The record closed on August 14, 2023, after receipt of the Division's Reply Brief (Reply).

On September 5, 2023, ALJ Jarry issued a Proposed Order. Mr. Murphy was given an opportunity to file exceptions within 20 calendar days from the date of service of the Proposed Order. Mr. Murphy timely filed a response to the Proposed Order with the ALJ and BCD's counsel, which the Division has accepted as written exceptions. At its meeting on September 28, 2023, the Board considered Mr. Murphy's exceptions and found them to be without merit.²

ISSUES

1. Whether Mr. Murphy violated OAR 918-282-0120(1) by allowing an individual to perform electrical work, for which the individual was not properly licensed.

2. Whether Mr. Murphy violated OAR 918-282-0140(2)(f) by permitting, either by assent or by failure to prevent, an individual to perform electrical work, for which the individual was not properly licensed.

3. Whether Mr. Murphy violated ORS 479.550(1) by obtaining an electrical permit approximately one year after a new electrical panel and new GFCI outlets were installed at the 9th Place property.

4. Whether Mr. Murphy violated the terms of a 2021 final order issued by the Board. ORS 455.450(1).

5. Whether Mr. Murphy should pay a total civil penalty of \$21,500 for violations of OAR 918-282-0120(1), OAR 918-282-0140(2)(f), and ORS 479.550(1). ORS 455.895(1)(b) and OAR 918-001-0036.

6. Whether Mr. Murphy's suspended civil penalty of \$2,750 should be reinstated. ORS 455.450 and OAR 918-001-0036(4).

¹ The stipulated findings of fact are incorporated into the Findings of Fact below with one minor typographical correction, which is noted, and minor changes to wording that do not affect the substance of the findings.

² In Mr. Murphy's response, he claimed the ALJ made determinations that were not supported by the record and misapplied the law. The Board finds these exceptions to be without merit for, among other reasons, that Mr. Murphy stipulated to all but one of the Findings of Fact in the Notice, and the ALJ based her conclusions upon those stipulated facts.

7. Whether Mr. Murphy's electrical contractor's license should be suspended for two years. ORS 455.129(2)(a), (b), (d), and (3)(b).

8. Whether Mr. Murphy's general supervising electrician license should be suspended for two years. ORS 455.129(2)(a), (b), (d), and (3)(b).

EVIDENTIARY RULINGS

Exhibits A1 through A5 and A7 through A24, offered by the Division, were admitted into the record without objection. Exhibit A6, offered by the Division, was admitted into the record over Mr. Murphy's objection.

FINDINGS OF FACT

Background

1. At all relevant times, Mr. Murphy held Construction Contractors Board number 231590. (Stipulation of Parties; Ex. A1 at 1.)

2. At all relevant times, Mr. Murphy held electrical contractor's license number C1554. (Stipulation of Parties; Ex. A1 at 3.)

3. At all relevant times, Mr. Murphy held general supervising electrician license number 6519S. (Stipulation of Parties; Ex. A1 at 2.)

4. On or about July 6, 2020, Mr. Murphy registered with the Oregon Secretary of State under an assumed business name, Murphy Family Electric. (Stipulation of Parties; Ex. A1 at 4.)

5. At all relevant times, Mr. Murphy was registered with the Division as the general supervising electrician for Murphy Family Electric. (Stipulation of Parties.)

6. At all relevant times, Stan Grubbs worked for Murphy Family Electric as an electrician. Mr. Grubbs did not hold a valid Oregon supervising electrician license, journeyman electrician license, or limited residential electrician license. (Stipulation of Parties.)

7. Mr. Murphy resides primarily in Virginia and Tennessee and spends some time in Oregon. He operates the business using Square, a booking and payment application. When customers book services, he receives emails that include the terms of the appointments and the pricing. (Test. of Murphy.)

2021 Final Order

8. On or about January 28, 2021, the Board issued a Consent Order, incorporated as a final order (2021 final order) in Division case C2020-0114, against Mr. Murphy, which Mr. Murphy had signed on or about January 24, 2021. The fully executed final order was mailed to

Mr. Murphy on or about February 18, 2021. (Stipulation of Parties; Ex. A5.)

9. In the 2021 final order, the Board assessed Mr. Murphy \$4,000 in total civil penalties for performing electrical installations without an electrical contractor's license in violation of ORS 479.620(1) and for failing to obtain a valid electrical permit or minor label in violation of ORS 479.550(1). (Stipulation of Parties.) The violations occurred in March and May 2020. (Ex. A5 at 1-2.)

10. In the 2021 final order, Mr. Murphy consented to, and the Board ordered, the following disposition of the civil penalties:

- \$1,250 of the civil penalty was due and payable in 10 monthly payments that must be received no later than the 25th day of each month in the amount of \$125 per month. Mr. Murphy's first payment shall be received no later than the 25th day of the month following the month in which the Consent Order becomes a final order.³
- \$2,750 of the total civil penalty was suspended for a period of five years if Mr. Murphy complied with all other terms of this Consent Order.
- Mr. Murphy understood the suspended civil penalty (\$2,750) was to be considered satisfied five years after the Consent Order became a final order, provided Mr. Murphy complies with its terms and does not commit any further violations of the Division's statutes and rules within that five-year period. Mr. Murphy understood and agreed that upon a showing that he had not complied with the terms of this Consent Order or that he committed further violations of the Division's statutes or rules within the five-year period, the entire civil penalty, including the suspended amount, would become due and payable. Failure to comply with the Consent Order included, but was not limited to, failure to pay the civil penalty amount due by the due date.

(Stipulation of Parties.)

11. Mr. Murphy understood that further enforcement action would be taken for any violation of the Division's statutes or rules not alleged in the Consent Order, whether committed before or after the execution of the Consent Order, and/or for any violation of the Consent Order. (Stipulation of Parties.)

12. Mr. Murphy understood that failure to comply with the Consent Order could be used as a basis for denial of future licenses, certificates, registration, or other applications, or for the refusal to renew the same; for the suspension, revocation, or conditioning of a license, certificate, or registration issued by the Division or other state agencies; and/or for any other reason provided for in law. (Stipulation of Parties.)

13. Mr. Murphy confirmed by signing the Consent Order that he read and fully understood the terms of the Consent Order, freely and voluntarily consented to the entry of the Consent Order without any force or duress, and expressly waived all rights to a hearing or

³ On or about March 16, 2021, Mr. Murphy paid the \$1,250 civil penalty. (Stipulation of Parties.)

judicial review of the matter. (Stipulation of Parties.)

9th Place Property

14. In or about February 2021, Mr. Grubbs, acting on behalf of Murphy Family Electric, installed a new electrical panel and new GFCI outlets at a residence located at 9048 SW 9th Place in Portland, Oregon (9th Place property). (Stipulation of Parties.)

15. On or about January 28, 2021, Murphy Family Electric emailed Celine Lowney, homeowner of the 9th Place property, confirming that Mr. Grubbs was the electrician assigned to install an electrical panel on February 3, 2021, at the 9th Place property. (Stipulation of Parties; Ex. A7 at 12-13.)

16. On or about January 28, 2021, Murphy Family Electric emailed Ms. Lowney a receipt in the amount of \$203.50 for a service call and travel time. (Stipulation of Parties; Ex. A7 at 4-5.)

17. On or about February 3, 2021, Murphy Family Electric emailed Ms. Lowney a receipt in the amount of \$1,395 for homeowner's panel replacement. (Stipulation of Parties; Ex. A7 at 10-11.)

18. On or about February 12, 2021,⁴ Murphy Family Electric emailed Ms. Lowney a receipt in the amount of \$1,174.70 for an electrician for a day deal, travel time, van parts, tools, inventory fee, plastic outlet box, GFCI x 4, duplex receptacle/outlet x 2, and weatherproof bubble cover. (Stipulation of Parties; Ex. A7 at 7-8.)

19. In an interview with Division investigator, Phillip Padilla, Ms. Lowney confirmed that Mr. Grubbs was the only person working for Murphy Family Electric who performed electrical installations at the 9th Place property. (Stipulation of Parties.)

20. On or about April 8, 2022, Mr. Murphy obtained permit number 2022-130578-000-00-ET for the work Murphy Family Electric performed in February 2021 at the 9th Place property. (Stipulation of Parties.)

SE 70th Avenue Property

21. In or about June 2021, Mr. Grubbs, acting on behalf of Murphy Family Electric, installed the final wiring to connect a hot tub to power, replaced the interior circuit breaker box, installed a new service line mast on the roof, placed an external meter box from the main service line, and installed electrical wire from the meter in conduit to the rear of house at a residence located at 2506 SE 70th Avenue in Portland, Oregon (70th Avenue property). (Stipulation of Parties.)

⁴ The finding of fact in the Notice included a typographical error of 2012 rather than 2021. The ALJ made the correction in this finding based on Exhibit A7 at 7.

Concord Avenue Property

22. In or about August 2021, Mr. Grubbs, acting on behalf of Murphy Family Electric, installed outlets, switches, new nonmetallic cable, and hardwired smoke detectors at a residence located at 4935 N. Concord Avenue in Portland, Oregon (Concord Avenue property.)

23. On or about August 18, 2021, Murphy Family Electric emailed Michael Meerschaert, homeowner of the Concord Avenue property, confirming that Mr. Grubbs would be his electrician for a day on August 25, 2021. (Stipulation of Parties; Ex. A6 at 4-5.)

24. On or about August 25, 2021, Murphy Family Electric emailed Mr. Meerschaert, confirming that Mr. Grubbs would be his electrician for a day on September 9, 2021. (Stipulation of Parties; Ex. A6 at 6-7.)

25. On or about August 25, 2021, Murphy Family Electric emailed Mr. Meerschaert a receipt (invoice number 000231) in the amount of \$1,528.50 for an electrician for a day deal, travel time, fleet fee, van parts, tools, inventory fee, a plastic outlet box, 12-2 150' (Romex wire), and 12-2 50' (Romex wire). (Stipulation of Parties; Ex. A6 at 67-68.)

26. On or about September 9, 2021, Murphy Family Electric emailed Mr. Meerschaert a receipt (invoice number 000244) in the amount of \$1,255.70 for an electrician for a day deal, a regular service call with 30 minutes of labor, van parts, tools, inventory fee, a plastic outlet box, 12-2 75', 12-2 50', and a single pole amp breaker. (Stipulation of Parties; Ex. A6 at 73-74.)

27. On or about September 10, 2021, Murphy Family Electric emailed Mr. Meerschaert, confirming that Mr. Grubbs would be his electrician for a half-day on September 13, 2021. (Stipulation of Parties; Ex. A6 at 8-9.)

28. On or about September 13, 2021, Murphy Family Electric emailed Mr. Meerschaert a receipt (invoice number 000249) in the amount of \$386 for use of license and city fees. (Stipulation of Parties; Ex. A6 at 69-70.)

29. On or about September 13, 2021, Murphy Family Electric emailed Mr. Meerschaert a receipt (invoice number 000250) in the amount of \$846.85 for travel time, fleet fee, van parts, tools, inventory fee, electrician half-day, 14-2 35', 14-2 25', and plastic outlet box x 3. (Stipulation of Parties; Ex. A6 at 71-72.)

30. On or about September 14, 2021, Mr. Meerschaert sent Mr. Murphy a text message, asking whether there was "[a]ny word on the inspection." (Stipulation of Parties.) Mr. Murphy replied, "Yeah the inspector call [*sic*] this morning and he said that we don't have the right type of permit..." (*Id.*) Mr. Murphy further explained that he was working to resolve the permitting issues so the inspection could take place. (*Id.*)

31. On or about September 15, 2021, Murphy Family Electric emailed Mr. Meerschaert an invoice (invoice number 034450) in the amount of \$698.50 for an electrician for a half-day, travel time, fleet fee, van parts, tools, and inventory fee. (Stipulation of Parties; Ex. A6 at 75-76.)

32. On or about September 15, 2021, Mr. Murphy sent Mr. Meerschaert an electrical permit application from the City of Portland and asked him via text message to sign a section of the permit that declared Mr. Meerschaert was the homeowner who was responsible for performing the electrical installations and that the Concord Avenue property was not intended for sale, lease, rent, or exchange. Mr. Meerschaert pointed out the declaration language on the application to Mr. Murphy and informed Mr. Murphy that he did not perform the electrical installations and that he intended to rent the property. Mr. Murphy replied via text message, "Oh I see... small print." (Stipulation of Parties; Ex. A6 at 15.)

33. On or about September 15, 2021, Mr. Murphy asked Mr. Meerschaert via text message to tell the inspector that Curtis Stone, a licensed journeyman electrician, performed the electrical installations at the Concord Avenue property. In reply, Mr. Meerschaert stated that he did not know Mr. Grubbs was not licensed and that he had already told the inspector that Mr. Grubbs performed the electrical installations. (Stipulation of Parties; Ex. A6 at 15-16.) Mr. Murphy replied, "It's ok we can say Stan helped." (Ex. A6 at 16; Stipulation of Parties.) Mr. Murphy stated that Mr. Grubbs was about to take his journeyman's test and works under Mr. Murphy's license. Mr. Murphy again stated, "We need to tell the inspector Curtis [Stone] is our licensed tech on the job." (*Id.*)

Sanctions

34. The Division has adopted a penalty matrix for determining the appropriate civil penalty for violations of the electrical code. (Ex A12; test. of Hier.) The penalty matrix provides:

The entire penalty is imposed in all cases. * * *. A stay of some portion of a penalty is within the sole discretion of the board or the division acting on the board's behalf for purposes of settling cases prior to hearing.

(Ex. A12 at 1.)

35. The penalty matrix includes the following standard civil penalties for violators who have one prior violation within five years:

- \$4,000 for a supervising electrician failing to perform the duties of a supervisor under OAR 918-282-0140;
- \$2,500 for allowing an unlicensed individual to perform specialty work;
- \$2,000 for violations of permit requirements;

(Ex. A12 at 1-2; test. of Hier.)

CONCLUSIONS OF LAW

1. Mr. Murphy violated OAR 918-282-0120(1) by allowing an individual to perform electrical work, for which the individual was not properly licensed.
2. Mr. Murphy violated OAR 918-282-0140(2)(f) by permitting, either by assent or by failure to prevent, an individual to perform electrical work, for which the individual was not properly licensed.
3. Mr. Murphy violated ORS 479.550(1) by obtaining an electrical permit approximately one year after a new electrical panel and new GFCI outlets were installed at the 9th Place property.
4. Mr. Murphy violated the terms of a 2021 final order issued by the Board.
5. Mr. Murphy should pay a total civil penalty of \$21,500 for violations of OAR 918-282-0120(1), OAR 918-282-0140(2)(f), and ORS 479.550(1).
6. Mr. Murphy's suspended civil penalty of \$2,750 should be reinstated.
7. Mr. Murphy's electrical contractor's license should be suspended for two years.
8. Mr. Murphy's general supervising electrician license should be suspended for two years.

OPINION

The Division bears the burden of establishing by a preponderance of the evidence that the alleged violations occurred and that the proposed sanctions (*i.e.*, the civil penalties and two-year license suspensions) are warranted. *See* ORS 183.450(2) ("The burden of presenting evidence to support a fact or position in a contested case rests on the proponent of the fact or position"); *Harris v. SAIF*, 292 Or 683, 690 (1982) (general rule regarding allocation of burden of proof is that the burden is on the proponent of a fact or position); *Dixon v. Board of Nursing*, 291 Or App 207, 213 (2018) (preponderance standard of proof generally applies in agency proceedings). Proof by a preponderance of the evidence means that the fact finder is persuaded that the facts asserted are more likely than not true. *Riley Hill General Contractor v. Tandy Corp.*, 303 Or 390, 402 (1987).

Violations of OAR 918-282-0120(1)

ORS 479.620 provides, in part:

Subject to ORS 479.540, a person may not:

* * * * *

(3) Except as provided in subsection (5) of this section, make any electrical installation without a supervising or journeyman electrician's license.

* * * * *

(5) Make any electrical installation on a single or multifamily dwelling unit not exceeding three floors above grade, as provided in ORS 479.630 (14), without a limited residential electrician's license.

ORS 479.530 provides, in part:

(10) "Electrical installations" means the construction or installation of electrical wiring and the permanent attachment or installation of electrical products in or on any structure that is not itself an electrical product. "Electrical installation" also means the maintenance or repair of installed electrical wiring and permanently attached electrical products. "Electrical installation" does not include an oil module.

(11) "Electrical product" means any electrical equipment, material, device or apparatus that, except as provided in ORS 479.540, requires a license or permit to install and either conveys or is operated by electrical current.

The parties do not dispute that Mr. Grubbs performed electrical work at the 9th Place, 70th Avenue, and Concord Avenue properties, for which he was not properly licensed. The Division contends that Mr. Murphy allowed Mr. Grubbs to perform the electrical work at issue, and therefore, Mr. Murphy violated OAR 918-282-0120(1). Division Closing Argument at 5-6.

OAR 918-282-0120(1) provides:

No person or entity shall allow any individual to perform electrical work for which the individual is not properly registered or licensed.

Mr. Murphy contends that, in order to establish a violation of OAR 918-282-0120(1), the Division must prove that he "had awareness or knowledge that Mr. Grubbs was unlicensed and then acted with that knowledge." Murphy Closing Argument at 2. The Division disputes that it must prove that Mr. Murphy had knowledge of Mr. Grubbs' licensure status to prove a violation of the rule. Reply at 1.

To properly construe the meaning of OAR 918-282-0120(1), it is necessary to consider the analytical approach set forth in *PGE v. Bureau of Labor and Industries*, 317 Or 606 (1993) and *State v. Gaines*, 346 Or 160 (2009); see also *Tye v. McFetridge*, 342 Or 61, 69 (2006) (PGE analysis is applicable to administrative rule analysis). In *PGE*, the Oregon Supreme Court explained that to determine legislative intent, a court begins by examining a statute's text, and its statutory context, giving words of common usage their plain, natural, and ordinary meaning. If the legislative intent is unambiguous, the court stops at that first level of analysis. *PGE*, 317 Or

at 610-11. Words of common usage, such as “allow,” are typically given their “plain, natural, and ordinary meaning.” See *Dept. of Consumer & Business Services v. Muliro*, 359 Or 736, 745-46 (2016) (citing *PGE*, 317 Or at 611).

The rule does not specify a culpable mental state. It is therefore necessary to determine the meaning of “allow.”

Here, the most relevant dictionary definition of “allow” is as follows:

4: PERMIT <a pipe to ~ the heated air to escape> <occasional gaps ~ passage through the mountains> <pulled to the side to ~ us to pass>: **a:** to permit by way of concession <no smoking ~ed> <he ~s himself many luxuries> <children too young to be ~ed out at night> **b:** to permit by neglecting to restrain or prevent <~ a garden to become overgrown with weeds> <conditions which should never have been ~ed to develop>[.]

See *Webster’s Third New Int’l Dictionary* 58 (unabridged ed 2002).

Given the above definition, it is reasonable to interpret the term “allow” in OAR 918-282-0120(1) as “to permit,” either “by way of concession,” or “by neglecting to restrain or prevent.” The meaning of “allow” does not specify a culpable mental state. Accordingly, the omission of a mental state in the rule demonstrates the Board’s intent to not require a culpable mental state. See *Topaz v. Oregon Board of Examiners for Engineering*, 255 Or App 138, 146 (2013) (“the legislature’s failure to include a clear reference to a mental state” in statute demonstrated intent not to require a culpable mental state).⁵

The record establishes that Mr. Grubbs made electrical installations at the 9th Place, 70th Avenue, and Concord Avenue properties on behalf of Murphy Family Electric. Accordingly, Mr. Murphy committed three violations of OAR 918-282-0120(1) by allowing an unlicensed individual to perform electrical work.

Violations of OAR 918-282-0140(2)(f)

The Division alleges that Mr. Murphy violated OAR 918-282-0140(2) by permitting, either by assent or by failure to prevent, Mr. Grubbs to perform work for which he was not properly licensed at the 9th Place, 70th Avenue, and Concord Avenue properties.

OAR 918-282-0140(2) provides, in pertinent part:

⁵ Regardless, the evidence in the record establishes that Mr. Murphy was aware Mr. Grubbs was not licensed in Oregon when Mr. Grubbs performed work for Murphy Family Electric. For instance, in a text message exchange with Mr. Meerschaert in September 2021, Mr. Murphy stated, “Stan [Grubbs] is about to take his journeyman’s test and works under my license.” Exhibit A6 at 16. Additionally, during Mr. Murphy’s interview with the Division’s investigator, Mr. Murphy stated that he believed Mr. Grubbs was licensed in California but did not claim to believe Mr. Grubbs was licensed in Oregon. Exhibit A18.

The general signing supervising electrician must:

* * * * *

(f) Ensure electricians have proper licenses for the work performed, and may not permit either by assent or by failure to prevent, an individual to perform work for which they are not properly licensed[.]

Mr. Murphy contends that OAR 918-282-0140(2)(f) does not apply to this matter because the rule requires general signing supervising electricians to ensure that *electricians* have proper licenses for the work performed and Mr. Grubbs was not a licensed electrician. Murphy Closing Argument at 6. The Division contends that Mr. Murphy failed to examine the rule in its entirety. Reply at 3.

The Division's allegations against Mr. Murphy involve the portion of OAR 918-282-0140(2)(f) that prohibits general signing supervising electricians from permitting *individuals* to perform work for which they are not properly licensed. *See* Notice at 12-13. The evidence in the record establishes that Mr. Murphy permitted Mr. Grubbs to perform electrical work for which he was not licensed at the 9th Place, 70th Avenue, and Concord Avenue properties. Accordingly, the Division established that Mr. Murphy committed three violations of OAR 918-282-0140(2)(f).

Violation of ORS 479.550(1)

The Division alleges that Mr. Murphy violated ORS 479.550(1) by obtaining an electrical permit approximately one year after Murphy Family Electric installed a new electrical panel and new GFCI outlets at the 9th Place property. The work performed qualifies as electrical installations pursuant to ORS 479.530(10).

ORS 479.550(1) provides, in part:

Except as provided in ORS 479.540, no person shall work on any new electrical installation for which a permit has not been issued.

Mr. Murphy contends that ORS 479.550(1) “requires an element of knowledge” and that he did not know about the work at the 9th Place property at the time it was performed. Murphy Closing Argument at 7. The Division argues that once Murphy Family Electric sent the appointment for the panel replacement at the 9th Place property, Mr. Murphy was required to obtain a permit. Reply at 4.

The plain language of ORS 479.550(1) does not include a mental state, which demonstrates the legislature's intent to not require a culpable mental state. *See Topaz*, 255 Or App 138, 146 (2013). Regardless, Mr. Murphy would have received an email notification of the appointment made by Ms. Lowney, which specified the type of work to be performed, and of the receipts for the work performed by Murphy Family Electric. *See* Exhibit A7 at 7-8, 10-13. Furthermore, as the general signing supervisor for Murphy Family Electric, Mr. Murphy had the responsibility to direct, supervise, make, or control “the making of electrical installations.” OAR

918-282-0140(1)(b). Additionally, he was required to “[s]ign all permits[.]” OAR 918-282-0140(2)(a). Accordingly, it was his responsibility to be aware of electrical installations made by Murphy Family Electric and to sign all permits needed for that work.

Mr. Murphy obtained a permit for the electrical installations made at the 9th Place property more than one year after Murphy Family Electric performed the work. Accordingly, the Division established that Mr. Murphy violated ORS 479.550(1).

Violation of Final Order

The Division contends that Mr. Murphy violated the terms of the 2021 final order issued by the Board.

ORS 455.450 provides, in pertinent part:

A person may not:

- (1) Violate, or procure or assist in the violation of, any final order of the Director of the Department of Consumer and Business Services, an advisory board, a state administrative officer or any local appeals board, building official or inspector, concerning the application of the state building code in a particular case or concerning a license, certificate, registration or other authorization.

The Board issued the Consent Order on January 28, 2021, and the 2021 final order was fully executed on January 28, 2021.⁶ The 2021 final order provides that if Mr. Murphy commits further violations of the Division’s statutes or rules within the five-year period after the Consent Order became final, the entire civil penalty, including the suspended amount of \$2,750, would become due and payable.

The Division established that Mr. Murphy violated OAR 918-282-0120(1), OAR 918-282-0140(2)(f) at the 9th Place, 70th Avenue, and Concord Avenue properties in February 2021, June 2021, and August/September 2021, respectively. Those violations occurred within the five-year period after the Consent Order became final; therefore, Mr. Murphy violated the terms of the 2021 final order.

⁶ The Board in this Final Order has made these changes to what was proposed in the Proposed Order to correct in the Opinion the date of when the 2021 final order was executed. The 2021 final order was fully executed and issued on January 28, 2021, not February 18, 2021, as shown in Finding of Fact 8 above. This correction to the Opinion does not change the Proposed Order in a substantial manner because the effect of the modification does not change the outcome or basis or a finding of fact from that in the Proposed Order. The 2021 final order provided that any further violation of the Division’s statutes and rules within a five-year period was a violation of the 2021 final order. The proposed order found that Mr. Murphy had violated the 2021 final order at the 70th Avenue and Concord Avenue properties, either of which was a violation of the 2021 final order that supports the sanctions imposed. Thus, this change in the Opinion to correct the date when the 2021 final order was fully executed is not a substantial change and was done to accurately reflect the Finding of Fact and evidence in the record.

Civil Penalties for Violations

ORS 455.895(1)(b) states that “[t]he Electrical and Elevator Board may impose a civil penalty against a person as provided under ORS 479.995.” ORS 479.995 provides:

The Electrical and Elevator Board may impose a civil penalty for a violation of ORS 479.510 to 479.945 or rules adopted for the administration or enforcement of ORS 479.510 to 479.945 and this section. The board shall impose a civil penalty authorized by this section as provided in ORS 455.895.

OAR 918-001-0036 is titled, “Guidelines for Civil Penalties,” and provides, in part:

(1) Scope and Authority. This rule sets guidelines for assessing a civil penalty under ORS 446.995 & 455.895.

(2) Definitions. For the purposes of this rule:

* * * * *

(c) “Pattern of violation” means two or more prior violations during a five-year period of any provision of ORS Chapter 446, 447, 455, 460, 479, 480, or 693, or the state building code as defined in 455.010, whether or not a penalty was assessed. A pattern of violation is calculated within a five-year period from the date of the latest violation.

* * * * *

(4) Civil penalties may be assessed by a board, the Director, or a board’s designee acting as agent for a board. A board or the Director may take into account any appropriate factors, including previous directives, in determining the penalty amount or conditions within an order. The statutorily defined maximum penalty may only be assessed upon a finding of a pattern of violation.

(5) Civil penalties may be assessed in addition to, or in lieu of, the conditioning, suspension, or revocation of a license, certificate of competency, or similar authority issued by the Director.

(6) The Director may, subject to approval of a board, develop a penalty matrix for the board’s use to promote equity and uniformity in proposing the amount and terms of civil penalties and conditions under which the penalties may be modified based on the circumstances in individual cases.

In the 2021 final order, the Board found that Mr. Murphy violated ORS 479.620(1) and ORS 479.550(1) in March and May 2020. Because those violations occurred within five years of

the violations in this matter, the Division established that Mr. Murphy engaged in a pattern of violation pursuant to OAR 918-001-0036(2)(c). Mr. Murphy is therefore subject to increased civil penalties according to the Division's penalty matrix. See Exhibit A12.

The Division established that Mr. Murphy committed three violations of OAR 918-282-0120(1). The standard civil penalty for unlicensed activities violations, based on the increased civil penalty for having a prior violation with five years, is \$2,500. Exhibit A12 at 1. Accordingly, Mr. Murphy should pay a total civil penalty of \$7,500 (\$2,500 x 3) for violations of OAR 918-282-0120(1).

The Division established that Mr. Murphy committed three violations of OAR 918-282-0140(2)(f). The standard civil penalty for supervisor violations, based on the increased civil penalty for having a prior violation with five years, is \$4,000. Exhibit A12 at 2. Accordingly, Mr. Murphy should pay a total civil penalty of \$12,000 (\$4,000 x 3) for violations of OAR 918-282-0140(2)(f).

Finally, the Division established that Mr. Murphy violated ORS 479.550(1) on one occasion. The standard civil penalty for permit violations, based on the increased civil penalty for having a prior violation with five years, is \$2,000. Accordingly, Mr. Murphy should pay a civil penalty of \$2,000 for a violation of ORS 479.550(1).

In sum, the Division established that a total civil penalty of \$21,500 (\$12,000 + \$7,500 + \$2,000) is appropriate.

Reinstatement of \$2,750 Civil Penalty

The Division seeks the reinstatement of Mr. Murphy's suspended civil penalty of \$2,750. OAR 918-001-0036 provides, in part:

(2) Definitions. For the purposes of this rule:

* * * * *

(b) A "directive" includes, but is not limited to, a * * * order, consent decree or settlement agreement * * *.

(4) Civil penalties may be assessed by a board, the Director, or a board's designee acting as agent for a board. A board or the Director may take into account any appropriate factors, including previous directives, in determining the penalty amount or conditions within an order[.]

As previously discussed, Mr. Murphy violated the terms of the 2021 final order by committing violations of the Division's statutes and rules within five years of the Consent Order becoming final. Pursuant to the terms of the Board's 2021 final order, the previously suspended civil penalty of \$2,750 should be reinstated.

License Suspensions

The Division proposes two-year suspensions of Mr. Murphy’s electrical contractor’s license and general supervising electrician license pursuant to ORS 455.129(2)(a), (b), (d), and (3)(b).

ORS 455.129 provides, in part:

(2) Subject to ORS chapter 183, a regulatory body listed in subsection (3) of this section may deny a license, certificate, registration or application or may suspend, revoke, condition or refuse to renew a license, certificate or registration if the regulatory body finds that the licensee, certificate holder, registrant or applicant:

(a) Has failed to comply with the laws administered by the regulatory body or with the rules adopted by the regulatory body.

(b) Has failed to comply with an order of the regulatory body or the Director of the Department of Consumer and Business Services, including but not limited to the failure to pay a civil penalty.

* * * * *

(d) Has performed work without appropriate licensing, certification or registration or has employed individuals to perform work without appropriate licensing, certification or registration.

* * * * *

(3) Subsection (2) of this section applies to:

* * * * *

(b) The Electrical and Elevator Board for purposes of licenses issued under ORS 479.510 to 479.945.

The Division established that Mr. Murphy failed to comply with the laws administered by the Board and with the rules adopted by the Board, failed to comply with the 2021 final order, and employed an individual to perform work without appropriate licensing. As a result, the Division may suspend Mr. Murphy’s electrical contractor’s license and general supervising electrician license pursuant to ORS 455.129(2)(a), (b), and (d).

The Division seeks two-year suspensions of Mr. Murphy’s licenses due to aggravating circumstances surrounding the violations. *See* Division Closing Argument at 8-9. For the following reasons, I agree. First, Mr. Murphy previously committed violations involving lack of licensure and failure to obtain a permit in 2020, as established by the 2021 final. His violations

in this matter occurred shortly after he signed the Consent Order in January 2021, which demonstrates his disregard for the requirements under the applicable statutes and rules. Second, Mr. Murphy attempted to deceive the City of Portland inspectors by asking a homeowner, Mr. Meerschaert, to falsely inform the inspector that a licensed journeyman electrician performed the electrical installations at the Concord Avenue property. Finally, multiple violations in this matter involve an unlicensed individual performing electrical work on behalf of Murphy Family Electric at three properties in Oregon. Pursuant to ORS 479.520, “the purpose of the Electrical Safety Law is to protect the health and safety of the people of Oregon[.]” By allowing an unlicensed individual to perform electrical work for Murphy Family Electric’s customers, Mr. Murphy disregarded the legislature’s intent “[t]o assure the public that persons making electrical installations in this state are qualified by experience and training.” ORS 479.520(2). At the hearing, Mr. Murphy failed to show any contrition regarding the violations and instead blamed his predicament on onerous licensing requirements in Oregon, a difficult permitting process in Portland, Oregon, and harassment by inspectors. Testimony of Murphy. Given these aggravating circumstances, the Division established that two-year suspensions of Mr. Murphy’s licenses are appropriate.

ORDER


After considering all the above, the Electrical and Elevator Board issues the following order:

Sean Murphy must pay a total civil penalty of \$24,250 as follows:

1. Sean Murphy is liable to pay a total civil penalty of \$21,500 for violations of OAR 918-282-0120(1), OAR 918-282-0140(2)(f), and ORS 479.550(1); and
2. Sean Murphy’s suspended civil penalty of \$2,750, from the 2021 final order in case number C2020-0114, is reinstated.

Sean Murphy’s Oregon electrical licenses are suspended as follows:

1. Sean Murphy’s Oregon electrical contractor’s license number C1554 is suspended for two years, commencing on the date of entry of this final order; and
2. Sean Murphy’s Oregon general supervising electrician license number 6519S is suspended for two years, commencing on the date of entry of this final order.


_____ for
Chair
Electrical and Elevator Board
State of Oregon

Date: 9/28/23

Appeal Rights: You are entitled to judicial review of this order in accordance with ORS 183.482. You may request judicial review by filing a petition with the Court of Appeals within 60 days from the date this order served on you. If this Order was mailed to you, the date of service is on the day it was *mailed*, not the day you received it. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

FILED: March 5, 2025

This is a nonprecedential memorandum opinion pursuant to ORAP 10.30 and may not be cited except as provided in ORAP 10.30(1).

IN THE COURT OF APPEALS OF THE STATE OF OREGON

SEAN MURPHY, dba Murphy Family Electric,
Petitioner,

v.

ELECTRICAL AND ELEVATOR BOARD,
Respondent.

Electrical and Elevator Board
2023ABC05780

A182645

Submitted on January 22, 2025.

Sean Murphy filed the briefs *pro se*.

Ellen F. Rosenblum, Attorney General, Benjamin Gutman, Solicitor General, and Inge D. Wells, Assistant Attorney General, filed the brief for respondent.

Before Aoyagi, Presiding Judge, Egan, Judge, and Joyce, Judge.

AOYAGI, P. J.

Affirmed.

DESIGNATION OF PREVAILING PARTY AND AWARD OF COSTS

Prevailing party: Respondent

No costs allowed.
 Costs allowed, payable by

1 AOYAGI, P. J.

2 Petitioner seeks judicial review of a final order of the Electrical and
3 Elevator Board. The board found that petitioner committed several violations and, as a
4 result, suspended his electrical contractor's license and general supervising electrician
5 license for two years, imposed a civil penalty of \$21,500, and reinstated a previously
6 suspended civil penalty of \$2,750. On review, petitioner argues that the board erred by
7 (1) finding that petitioner attempted to deceive city inspectors by asking a homeowner to
8 make a false statement; (2) finding that an unlicensed individual employed by petitioner
9 performed electrical work; and (3) imposing disproportionately severe penalties for the
10 violations. The board maintains that it did not err.

11 On judicial review of a final administrative order, "we review the board's
12 findings of fact for substantial evidence and its legal conclusions for errors of law."
13 *Public Utility Commission v. Tillotson*, 210 Or App 433, 439, 150 P3d 1083 (2007). We
14 review the decision on license suspension and civil penalties for abuse of discretion, *Read*
15 *v. Oregon Medical Board*, 244 Or App 603, 614-15, 260 P3d 771 (2011), *rev den*, 351 Or
16 649 (2012), recognizing that, "under a totality of the circumstances review, a punishment
17 disproportionate to the offense can constitute an abuse of discretion," *Sachdev v. Oregon*
18 *Medical Board*, 312 Or App 392, 409, 494 P3d 1018 (2021).

19 Applying those standards, we affirm. As an initial matter, the board points
20 out, and we acknowledge, that petitioner's arguments to this court are quite summary.
21 Given our neutral role, we will not develop legal arguments for a party, instead

1 addressing only properly presented and sufficiently developed arguments. *See Johnson v.*
2 *Mullen*, 331 Or App 112, 118, 545 P3d 1261 (2024) (rejecting an argument that was
3 raised but not sufficiently developed in the appellant's brief); *Beall Transport Equipment*
4 *Co. v. Southern Pacific*, 186 Or App 696, 700 n 2, 64 P3d 1193, *adh'd to on recons*, 187
5 Or App 472, 68 P3d 259 (2003) (rejecting a "conclusory" argument as "it is not this
6 court's function to speculate as to what a party's argument might be[, n]or is it our proper
7 function to make or develop a party's argument when that party has not endeavored to do
8 so itself"). We therefore limit ourselves to addressing the arguments that are properly
9 presented and at least minimally sufficiently developed in petitioner's briefing.

10 With respect to the two challenged factual findings--that an unlicensed
11 individual employed by petitioner performed electrical work, and that petitioner
12 attempted to deceive city inspectors by asking a homeowner to make a false statement--
13 those findings are supported by substantial evidence.

14 The parties stipulated, and the board found, as follows.¹ At all relevant
15 times, Stan Grubbs worked for petitioner's business "as an electrician" and "did not hold a
16 valid Oregon supervising electrician license, journeyman electrician license, or limited
17 residential electrician license." In February 2021, at the 9th Place property, Grubbs
18 installed a new electrical panel and new GFCI outlets. In June 2021, at the SE 70th
19 Avenue property, Grubbs installed the final wiring to connect a hot tub to power,

¹ The board made more extensive findings, but we discuss only those findings that are most relevant to the issues on judicial review.

1 replaced the interior circuit breaker box, installed a new service line mast on the roof,
2 replaced an external meter box from the main service line, and installed electrical wire
3 from the meter to the rear of the house. In August and September 2021, regarding the
4 Concord Avenue property, petitioner's business emailed the property owner on three
5 separate occasions to confirm that Grubbs would be his electrician on a particular date,
6 then sent invoices for the work. Petitioner then texted the owner on September 15, 2021,
7 asking him to tell the city inspector that Curtis Stone, a licensed journeyman electrician,
8 performed the electrical installations at the property. When the owner replied that he had
9 already told the inspector that Grubbs performed them, petitioner responded, "It's okay,
10 we can say Stan helped"; told the owner that Grubbs was about to take his journeyman's
11 test and worked under petitioner's license; and stated, "We need to tell the inspector
12 Curtis is our licensed tech on the job."

13 In challenging the board's findings regarding Grubbs performing electrical
14 work while unlicensed and petitioner attempting to deceive city inspectors in relation to
15 the Concord Avenue property, petitioner essentially asks us to adopt a version of the facts
16 that is contrary to the board's findings and his own stipulations. That is inconsistent with
17 the standard of review. The challenged findings are supported by substantial evidence.

18 We next address the license suspensions and civil penalties that the board
19 imposed for the violations. Petitioner argues that the board abused its discretion, citing
20 the length of the license suspensions and the amount of civil penalties as disproportionate
21 "given the absence of any demonstrated harm or significant risk to public safety." We are

1 unpersuaded that the board abused its discretion. "[T]here is often more than one legally
2 permissible choice when discretion is at play." *Dept. of Human Services v. T. J. L.*, 335
3 Or App 477, 483, 558 P3d 855 (2024). Although the board might have had discretion to
4 impose shorter suspensions or lesser civil penalties, that does not mean that it abused its
5 discretion by choosing the length of suspensions and amount of civil penalties that it did.
6 Considering "the totality of the circumstances" as established by the factual findings of
7 the board, *Sachdev*, 312 Or App at 409, and the limited arguments made by petitioner, we
8 are unpersuaded that the board abused its discretion.

9 Affirmed.

**Agenda
Item
VI.**

Correction to draft
rules

State of Oregon

Board memo

Building Codes Division

May 22, 2025

To: Electrical and Elevator Board

From: Ian Paik, policy analyst, Policy and Technical Services

Subject: Field Evaluation Body Approval Process Rulemaking

Action requested:

The division requests the board review and approve the proposed field evaluation body approval process rulemaking language and recommend the Administrator proceed with rulemaking.

Background:

With this proposed rulemaking, the division is considering updating the field evaluation body approval process by streamlining the application review process within the electrical program, aligning field evaluation body approval terms, and recognizing updated national standards and practices regarding the regulation of field evaluation bodies. These changes aim to address industry's concerns of confusion, while balancing potential burdens on the division's electrical program.

The division has been working with industry, field evaluation bodies, and customers in the state to help draft these proposed rules over the past year. In particular, the division would like to thank Chuck Mello, Mike Kyle, and Nathan Phillips for their collective expertise and guidance throughout the rule drafting process.

The division held a rulemaking advisory committee on January 23, 2025, during the Electrical and Elevator Board meeting. The Electrical and Elevator Board reviewed the proposed rulemaking language at its March 27, 2025, meeting. The board directed the division to amend the rule language to remove any potential bias towards an accreditation body and to clarify what is considered an acceptable accreditation body.

Options:

- Approve the proposed rule language for the field evaluation body approval process and recommend the Administrator proceed with rulemaking.
- Amend and approve the proposed rule language for the field evaluation body approval process and recommend the Administrator proceed with rulemaking.
- Disapprove the proposed rule language for the field evaluation body approval process and recommend the Administrator does not proceed with rulemaking.

**Field Evaluation Rules
Electrical and Elevator Board meeting
May 22, 2025**

918-306-0005

Standards for Product Evaluations

The following standards shall be adopted for use when completing product evaluation:

- (1) NFPA standards on list dated October 1, 2023, maintained by the division titled “NFPA Standards”; and
- (2) UL standards on list dated October 1, 2023, maintained by the division titled “UL Standards.”

918-306-0010

Overview

- (1) ORS 479.610 establishes certification requirements for electrical products.
- (2) The certification process generally involves inspection, testing and evaluation of the product. This is done through:
 - (a) Listing and application of listing label by a Nationally Recognized Testing Laboratory (NRTL);
 - (b) Special Deputy Evaluation and Certification. A product can be submitted to the division for certification under ORS 479.760. The special deputy procedures, rules and limitations are located in OAR 918-306-0510 to 918-306-0530; or
 - (c) Field Evaluation of Products. Field evaluation **by a qualified Field Evaluation Body** involves inspection, testing, evaluation and application of an evaluation label, ~~utilizing the 2018 NFPA Recommended Practice and Procedures for Unlabeled Electrical Equipment Evaluation.~~
- (3) Field Evaluation Bodies must be compliant with 2024 NFPA 790 “Standard for Competency of Third-Party Field Evaluation Bodies” and maintain evaluation procedures in accordance with 2024 NFPA 791 “Recommended Practice and Procedures for Unlabeled Electrical Equipment Evaluation.**

(4) Field Evaluation Bodies are to use applicable product safety standards. The use of 2024 NFPA 791 as the criteria for evaluation of products is prohibited as stated in the purpose of NFPA 791.

918-306-0340

General Requirement for Approval of Field Evaluation Firms Bodies

(1) Approval of a field evaluation firm body requires:

(1)(a) The firm body to meet Oregon approval standards in these rules for each type of product for which it seeks approval and be approved according to OAR 918-306-0350;

(2)(b) Examination and continued approval under OAR 918-306-0360 The Field Evaluation Body shall be accredited by a nationally recognized accreditation body that is signatory to the International Accreditation Form (IAF) or the International Laboratory Accreditation Cooperation (ILAC). The accreditation body shall utilize the NFPA standards referenced in OAR 918-306-0010. The Field Evaluation Body shall include its accreditation certificate as part of its application submittal; and

(3) Payment of actual expenses of examination and evaluation; and

(4)(c) The name, address, phone number, and email address of the and contact person representing designated as the Technical Manager for the field evaluation firm body is to be provided.

(2) The division's Electrical Program Chief or designated representatives reviews and approves or denies all applications and all required attachments for consideration and approval.

(3) Approval is granted when a field evaluation body submits a completed application and provides evidence to the division that all the requirements in these rules have been met. Prior to making a final determination, the division may request the applicant to submit more information and documentation.

918-306-0350

Checklist Criteria for Field Evaluation Firm Body Applicants

The application for approval as a field evaluation firm body shall **include** require proof of **certificate of accreditation demonstrating** that the firm: **field evaluation body meets**

the criteria in NFPA 790 for each product it seeks to evaluate. Additional criteria the department may review includes:

(1) ~~Is~~ **The Field Evaluation Body is** an independent, third-party inspection company with no direct or indirect affiliation with manufacturers, suppliers or vendors of the products it evaluates; **evaluates.**

(2) ~~Is primarily engaged in the business of testing electrical products, equipment and systems;~~ **Possesses the capacity, equipment, and personnel necessary to perform the inspections, tests, and evaluations for the products it evaluates;**

(3) ~~Does not engage in the promotion or design of the product being evaluated;~~

(4) ~~Has sufficient diversity of clients or activity and financial net worth, so loss or award of an evaluation contract would not be a material factor in the financial well-being of the firm;~~

(5) ~~Operates in accordance with generally accepted professional and ethical business practices; and~~

(a) ~~Performs inspections, tests and evaluations required under the field evaluation programs in accordance with the referenced recommended practice in OAR 918-306-0010;~~

(b) ~~Assures that reported values accurately reflect the inspection measurement data and final evaluation assessment; and~~

(c) ~~Limits its work to that for which it has the competence and capacity to fulfill.~~

(6)~~(3)~~ Provides in its client agreement that it ~~may~~ **supplies technical reports** to appropriate **authority having** jurisdiction **with** information concerning safety hazards and failures, **if any**, to meet applicable product safety standards and to provide any information requested by regulatory agencies **as well as resolution of issues found leading to the application of a Field Evaluation Body label;**

(7) ~~Maintains a consumer complaint file dealing with written complaints and resolve complaints contesting test results and evaluations fairly and promptly;~~

(8)~~(4)~~ Is able to do all examinations, tests, evaluations and inspections for field evaluating and labeling of products for which it is approved, **and limits its work to that for which it has the competency and capacity to fulfill;**

(9) ~~Maintains an independent relationship between its clients, client affiliates or other organizations so the firm's ability to issue reports and certifications objectively and without bias is not adversely affected;~~

(10)~~(5)~~ Has a quality control manual as provided in ~~OAR 918-306-0380~~ **2024 NFPA 790;**

~~(11)~~**(6)** Has personnel meeting the requirements ~~in~~ OSAR 918-306-0390 **2024 NFPA 790**;

~~(12)~~**(7)** Has test and measurement equipment meeting the requirements ~~in~~ OSAR 918-306-0400 **2024 NFPA 790**; and

~~(13)~~**(8)** Maintains records according to ~~OSAR 918-306-0410~~; and **in accordance with 2024 NFPA 790**.

~~(14)~~ Maintains an up-to-date library of all product safety standards as defined in ~~OSAR 918-306-0005~~ relating to each product being evaluated.

918-306-0360

Examination Schedule for Field Evaluation Firms Field Evaluation Body Approval Term

(1) Field Evaluation Bodies are approved for the duration of the body's certificate of accreditation. If the accreditation does not have an expiration term the approval is for a period of three years.

~~(1)~~**(2) Field Evaluation Bodies must have an active certificate of accreditation for the duration of the body's approval term. If the field evaluation body's accreditation status changes during the approval term, the body's approval will be suspended until the certificate of accreditation is active again.** Approved field evaluation firms shall be examined under the following schedule:

(a) Firms initially approved shall be examined at the end of two years; and

(b) Firms in good standing shall be examined every three years.

(2) Firms examined shall make all arrangements and pay all fees in advance of the re-examination.

(3) Field evaluation firms shall provide submittals to the division for the initial examination and re-examinations according to the schedule in Section (1) for review of the company's field evaluation program including procedures, processes, equipment calibration program, personnel qualifications and training, controls and record keeping as specified in ~~OSAR 918-306-0340 to 918-306-0410~~. Approval of field evaluation firms shall be for all company locations:

(4) On re-examination, field evaluation firms shall be specifically examined for corrections in prior examinations and to determine whether the firm continues to meet Oregon requirements.

918-306-0370

Suspension or Termination of Field Evaluation Body Approval Term

(1) Any field evaluation body failing to comply with the requirements of this section or submitting false information may have its approval term suspended or terminated for one or more electrical product categories.

(2) The division may suspend, terminate, or refuse to renew the approval term of any field evaluation body found to be in non-compliance with the requirements of the State of Oregon.

918-306-0375

Field Evaluation Bodies approved prior to October 1, 2025

(1) Certifications for field evaluation bodies that were approved prior to October 1, 2025, will expire on September 30, 2026.

(2) Field evaluation bodies that were approved prior to October 1, 2025, can apply for approval under this division of rules prior to September 30, 2026.

918-306-0380

Field Evaluation Firm Body Quality Control Manual

The firm **body** shall:

- (1) Maintain a quality control system to assure accuracy and technical integrity;
- (2) Have a quality control manual or a firm **body** operations control manual with written procedures, references and information covering evaluation of each product for which approval is sought. The contents must be adequate to guide a testing technician or inspector through the required tests and inspection; and
- (3) Keep an updated copy of all applicable manuals and standards at the work site for use by firm **body** personnel and make manuals available to the division for review and audit.

918-306-0390

Field Evaluation Firm Body Personnel

- (1) **Firm Body** personnel shall be competent to perform the tests, examinations, reevaluations and inspections for field evaluation of each product for which approval is sought.
- (2) Staff competency shall be verified at least annually by observations and/or examinations by qualified persons selected by the **Technical Manager** ~~manager~~ having technical responsibility for the ~~firm's~~ **body's** field evaluation operations.
- (3) A training program to assure new or untrained staff will be able to perform tests and inspections properly and uniformly to the requisite degree of precision and accuracy shall be maintained.
- (4) The ~~firm~~ **body** shall maintain records, including dates of training, observation or examination of personnel performance.

918-306-0400

Field Evaluation Firm Body Electrical Equipment Evaluation

The firm shall calibrate, verify and maintain its test and measurement equipment used to conduct any field evaluation. It shall maintain:

- (1) A description of the procedures used in calibrating, verifying and maintaining the test equipment, including as applicable:
 - (a) Calibration and verification equipment or services used;
 - (b) Reference standards and materials used;
 - (c) Measurement assurance, corroborative references, or other programs in which the laboratory participates;
 - (d) Specified maintenance practices.
- (2) Calibration and verification records, including as applicable:
 - (a) Equipment description or name;
 - (b) Name of manufacturer;
 - (c) Model, style and serial number, or other identification;
 - (d) Equipment variables subject to calibration and verification;

- (e) Statement of the instrument's allowable error and tolerances of readings;
- (f) Calibration and verification schedules (intervals);
- (g) Dates and results of last calibrations including "as received" results or verifications and schedule of future calibrations or verifications;
- (h) Name of laboratory person or outside contractor providing the calibration or verification service;
- (i) Traceability to National Institute of Standards and Technology or other standard reference authority as required.

918-306-0410

Field Evaluation Firm Body Records

- (1) The **firm body** shall maintain reports and supporting data as records of evaluation activities associated with each product inspected and tested, for which approval is sought. The firm shall make available to the division, upon request, a typical completed test or inspection report deleting the name of the client and installation location.
- (2) Test and inspection reports shall be retained for at least three years and contain as applicable **the elements identified in 2024 NFPA 791:**
 - (a) Name and address of the evaluation firm;
 - (b) Pertinent dates and identification of tests or inspections;
 - (c) Name of client;
 - (d) An appropriate title;
 - (e) Identification of the test, inspection or procedure as specified for the field evaluation program;
 - (f) Known deviations, additions to or exclusions from testing, inspection and evaluation activities to be appropriate to new or innovative products not contemplated by the standard;
 - (g) Measurements, examinations, derived results and identification of test anomalies;
 - (h) A statement whether or not the results comply with the requirements of the standard;

- (i) Name of the person completing the inspections, testing and evaluation and the signature of the person having responsibility for the report;
- (j) Data generated during testing if not included in the test report, such as raw data, calculations, table, graphs, sketches and photographs;
- (k) Records of its quality control checks and audits for monitoring its test work associated with its evaluation programs.

DRAFT

**Field Evaluation Rules
Electrical and Elevator Board meeting
May 22, 2025**

918-306-0005

Standards for Product Evaluations

The following standards shall be adopted for use when completing product evaluation:

- (1) NFPA standards on list dated October 1, 2023, maintained by the division titled “NFPA Standards”; and
- (2) UL standards on list dated October 1, 2023, maintained by the division titled “UL Standards.”

918-306-0010

Overview

- (1) ORS 479.610 establishes certification requirements for electrical products.
- (2) The certification process generally involves inspection, testing and evaluation of the product. This is done through:
 - (a) Listing and application of listing label by a Nationally Recognized Testing Laboratory (NRTL);
 - (b) Special Deputy Evaluation and Certification. A product can be submitted to the division for certification under ORS 479.760. The special deputy procedures, rules and limitations are located in OAR 918-306-0510 to 918-306-0530; or
 - (c) Field Evaluation of Products. Field evaluation **by a qualified Field Evaluation Body** involves inspection, testing, evaluation and application of an evaluation label, ~~utilizing the 2018 NFPA Recommended Practice and Procedures for Unlabeled Electrical Equipment Evaluation.~~
- (3) Field Evaluation Bodies must be compliant with 2024 NFPA 790 “Standard for Competency of Third-Party Field Evaluation Bodies” and maintain evaluation procedures in accordance with 2024 NFPA 791 “Recommended Practice and Procedures for Unlabeled Electrical Equipment Evaluation.**

(4) Field Evaluation Bodies are to use applicable product safety standards. The use of 2024 NFPA 791 as the criteria for evaluation of products is prohibited as stated in the purpose of NFPA 791.

918-306-0340

General Requirement for Approval of Field Evaluation Firms Bodies

(1) Approval of a field evaluation firm body requires:

(1)(a) The firm body to meet Oregon approval standards in these rules for each type of product for which it seeks approval and be approved according to OAR 918-306-0350;

(2)(b) Examination and continued approval under OAR 918-306-0360 The Field Evaluation Body shall be accredited by a nationally recognized accreditation body that is signatory to the International Accreditation Form (IAF) or the International Laboratory Accreditation Cooperation (ILAC). The accreditation body shall utilize the NFPA standards referenced in OAR 918-306-0010. The Field Evaluation Body shall include its accreditation certificate as part of its application submittal; and

(3) Payment of actual expenses of examination and evaluation; and

(4)(c) The name, address, phone number, and email address of the and contact person representing designated as the Technical Manager for the field evaluation firm body is to be provided.

(2) The division's Electrical Program Chief or designated representatives reviews and approves or denies all applications and all required attachments for consideration and approval.

(3) Approval is granted when a field evaluation body submits a completed application and provides evidence to the division that all the requirements in these rules have been met. Prior to making a final determination, the division may request the applicant to submit more information and documentation.

918-306-0350

Checklist Criteria for Field Evaluation Firm Body Applicants

The application for approval as a field evaluation firm body shall **include** require proof of **certificate of accreditation demonstrating** that the firm: **field evaluation body meets**

the criteria in NFPA 790 for each product it seeks to evaluate. Additional criteria the department may review includes:

(1) ~~Is~~ **The Field Evaluation Body is** an independent, third-party inspection company with no direct or indirect affiliation with manufacturers, suppliers or vendors of the products it evaluates; **evaluates.**

(2) ~~Is primarily engaged in the business of testing electrical products, equipment and systems;~~ **Possesses the capacity, equipment, and personnel necessary to perform the inspections, tests, and evaluations for the products it evaluates;**

(3) Does not engage in the promotion or design of the product being evaluated;

(4) ~~Has sufficient diversity of clients or activity and financial net worth, so loss or award of an evaluation contract would not be a material factor in the financial well-being of the firm;~~

(5) ~~Operates in accordance with generally accepted professional and ethical business practices; and~~

(a) ~~Performs inspections, tests and evaluations required under the field evaluation programs in accordance with the referenced recommended practice in OAR 918-306-0010;~~

(b) ~~Assures that reported values accurately reflect the inspection measurement data and final evaluation assessment; and~~

(c) ~~Limits its work to that for which it has the competence and capacity to fulfill.~~

(6)(3) ~~Provides in its client agreement that it may~~ **supplies technical reports** to appropriate **authority having** jurisdiction **with** information concerning safety hazards and failures, **if any**, to meet applicable product safety standards and to provide any information requested by regulatory agencies **as well as resolution of issues found leading to the application of a Field Evaluation Body label;**

(7) ~~Maintains a consumer complaint file dealing with written complaints and resolve complaints contesting test results and evaluations fairly and promptly;~~

(8)(4) ~~Is able to do all examinations, tests, evaluations and inspections for field evaluating and labeling of products for which it is approved,~~ **and limits its work to that for which it has the competency and capacity to fulfill;**

(9) ~~Maintains an independent relationship between its clients, client affiliates or other organizations so the firm's ability to issue reports and certifications objectively and without bias is not adversely affected;~~

(10)(5) ~~Has a quality control manual as provided in OAR 918-306-0380~~ **2024 NFPA 790;**

~~(11)~~**(6)** Has personnel meeting the requirements ~~in~~ OSAR 918-306-0390 **2024 NFPA 790**;

~~(12)~~**(7)** Has test and measurement equipment meeting the requirements ~~in~~ OSAR 918-306-0400 **2024 NFPA 790**; and

~~(13)~~**(8)** Maintains records according to ~~OSAR 918-306-0410~~; and **in accordance with 2024 NFPA 790**.

~~(14)~~ Maintains an up-to-date library of all product safety standards as defined in ~~OSAR 918-306-0005~~ relating to each product being evaluated.

918-306-0360

Examination Schedule for Field Evaluation Firms Field Evaluation Body Approval Term

(1) Field Evaluation Bodies are approved for the duration of the body's certificate of accreditation. If the accreditation does not have an expiration term the approval is for a period of three years.

~~(1)~~**(2) Field Evaluation Bodies must have an active certificate of accreditation for the duration of the body's approval term. If the field evaluation body's accreditation status changes during the approval term, the body's approval will be suspended until the certificate of accreditation is active again.** Approved field evaluation firms shall be examined under the following schedule:

(a) Firms initially approved shall be examined at the end of two years; and

(b) Firms in good standing shall be examined every three years.

(2) Firms examined shall make all arrangements and pay all fees in advance of the re-examination.

(3) Field evaluation firms shall provide submittals to the division for the initial examination and re-examinations according to the schedule in Section (1) for review of the company's field evaluation program including procedures, processes, equipment calibration program, personnel qualifications and training, controls and record keeping as specified in ~~OSAR 918-306-0340 to 918-306-0410~~. Approval of field evaluation firms shall be for all company locations:

(4) On re-examination, field evaluation firms shall be specifically examined for corrections in prior examinations and to determine whether the firm continues to meet Oregon requirements.

918-306-0370

Suspension or Termination of Field Evaluation Body Approval Term

(1) Any field evaluation body failing to comply with the requirements of this section or submitting false information may have its approval term suspended or terminated for one or more electrical product categories.

(2) The division may suspend, terminate, or refuse to renew the approval term of any field evaluation body found to be in non-compliance with the requirements of the State of Oregon.

918-306-0375

Field Evaluation Bodies approved prior to July 1, 2025

(1) Certifications for field evaluation bodies that were approved prior to July 1, 2025, will expire on July 1, 2026.

(2) Field evaluation bodies that were approved prior to July 1, 2025, can apply for approval under this division of rules prior to July 1, 2026.

918-306-0380

Field Evaluation Firm **Body Quality Control Manual**

The firm **body** shall:

- (1) Maintain a quality control system to assure accuracy and technical integrity;
- (2) Have a quality control manual or a firm **body** operations control manual with written procedures, references and information covering evaluation of each product for which approval is sought. The contents must be adequate to guide a testing technician or inspector through the required tests and inspection; and
- (3) Keep an updated copy of all applicable manuals and standards at the work site for use by firm **body** personnel and make manuals available to the division for review and audit.

918-306-0390

Field Evaluation Firm Body Personnel

- (1) **Firm Body** personnel shall be competent to perform the tests, examinations, reevaluations and inspections for field evaluation of each product for which approval is sought.
- (2) Staff competency shall be verified at least annually by observations and/or examinations by qualified persons selected by the **Technical Manager** ~~manager~~ having technical responsibility for the ~~firm's~~ **body's** field evaluation operations.
- (3) A training program to assure new or untrained staff will be able to perform tests and inspections properly and uniformly to the requisite degree of precision and accuracy shall be maintained.
- (4) The **firm body** shall maintain records, including dates of training, observation or examination of personnel performance.

918-306-0400

Field Evaluation Firm Body Electrical Equipment Evaluation

The firm shall calibrate, verify and maintain its test and measurement equipment used to conduct any field evaluation. It shall maintain:

- (1) A description of the procedures used in calibrating, verifying and maintaining the test equipment, including as applicable:
 - (a) Calibration and verification equipment or services used;
 - (b) Reference standards and materials used;
 - (c) Measurement assurance, corroborative references, or other programs in which the laboratory participates;
 - (d) Specified maintenance practices.
- (2) Calibration and verification records, including as applicable:
 - (a) Equipment description or name;
 - (b) Name of manufacturer;
 - (c) Model, style and serial number, or other identification;
 - (d) Equipment variables subject to calibration and verification;

- (e) Statement of the instrument's allowable error and tolerances of readings;
- (f) Calibration and verification schedules (intervals);
- (g) Dates and results of last calibrations including "as received" results or verifications and schedule of future calibrations or verifications;
- (h) Name of laboratory person or outside contractor providing the calibration or verification service;
- (i) Traceability to National Institute of Standards and Technology or other standard reference authority as required.

918-306-0410

Field Evaluation Firm Body Records

- (1) The **firm body** shall maintain reports and supporting data as records of evaluation activities associated with each product inspected and tested, for which approval is sought. The firm shall make available to the division, upon request, a typical completed test or inspection report deleting the name of the client and installation location.
- (2) Test and inspection reports shall be retained for at least three years and contain as applicable **the elements identified in 2024 NFPA 791:**
 - (a) Name and address of the evaluation firm;
 - (b) Pertinent dates and identification of tests or inspections;
 - (c) Name of client;
 - (d) An appropriate title;
 - (e) Identification of the test, inspection or procedure as specified for the field evaluation program;
 - (f) Known deviations, additions to or exclusions from testing, inspection and evaluation activities to be appropriate to new or innovative products not contemplated by the standard;
 - (g) Measurements, examinations, derived results and identification of test anomalies;
 - (h) A statement whether or not the results comply with the requirements of the standard;

- (i) Name of the person completing the inspections, testing and evaluation and the signature of the person having responsibility for the report;
- (j) Data generated during testing if not included in the test report, such as raw data, calculations, table, graphs, sketches and photographs;
- (k) Records of its quality control checks and audits for monitoring its test work associated with its evaluation programs.

DRAFT

**Agenda
Item
VII.A.**

April 8, 2025

Re: Hardship request

4664LEB

It has come to my attention that the State of Oregon did not receive my payment for LEB renewal. Once I completed the continuing education through Blue Volt CE, I went to the CCB License website to make the payment to renew my LEB License. I can't find any proof or any statement that show's that I made that payment, but I know that my co-worker and I both completed the payment. We both completed the continuing ed together and made the payments. I'm just asking if you (the BCD Board) can make an exception and grant us the ability to make the payment again, so we can complete the renewal. Again, why would we have completed 99 percent of the requirements to renew our license and not complete the last step. But my coworker and I are 100-percent certain that we did complete the process of renewing our LEB License. I'm not sure if it was your website that didn't get the transaction correct or If it was our computers on site or if it was the credit card issue. Please understand, I have gone through this process of completing continuing ed and paying the renewal fee time and time again without any issues. I have been dedicated to our profession and our company BendTel for over 15 years. I might lose my job over this mishap. This is our livelihoods and a small payment that no one can find shouldn't be the end all. I would have at least thought that the State would have sent an email or letter saying we did receive your completion of Continuing ED, but we haven't received a payment through the state. PLEASE...I beg you to reinstate my LEB License. I have a new born child and I can't imagine losing my job at this point in my life. I have completed this process of continuing ed and renewal multiple times, this is a horrible mistake and I don't believe it should end my career Thank you for taking the time to go over this process with me and I hope to hear from you soon.

Thanks,

Marcus Fowler, marcus.f@bendtel.com

**Agenda
Item
VII.B.**

Nathaniel W. Beisley
34114 S.E. Doyle Rd.
Estacada, Oregon 97023
503-438-5582
nathanbeisley@gmail.com
4/7/2025

Oregon Building Codes Division
P.O. Box 14470
Salem, OR 97309-0404

Subject: Hardship Letter for LEB License Renewal

To Whom It May Concern,

I am writing to respectfully request consideration for a hardship renewal of my Oregon Limited Energy Technician (LEB) license. I have completed the required 8 hours of continuing education to stay current with licensing requirements. However, due to unforeseen financial difficulty, my \$50.00 renewal payment did not go through.

I am currently facing temporary financial hardship, which has made it difficult to meet all my obligations on time. I am committed to my profession and to maintaining compliance with state licensing requirements. I respectfully request an opportunity to complete the payment as soon as possible or to be granted a grace period or payment arrangement, if allowed.

I deeply appreciate your time and understanding regarding my situation. Please let me know if any further documentation or information is needed.

Sincerely,
Nathaniel W. Beisley
LEB License #: 4366LEB



Agenda
Item
VII.C.

Graham Roney Licensing Manager
Brian Crise, Electrical Chief
1535 Edgewater St NW
PO Box 14470
Salem, OR 97309

April 30, 2025

To whom it may concern,

This letter is sent on behalf of our Journeyman, Jayson Dougherty, who is experiencing a licensing hardship regrading his LEB, license number 4213.

On September 23rd, 2023, Mr. Dougherty took a Limited Energy Class with Dave Gilson. His attendance originally went unrecorded on the roster, however Mr. Dougherty proactively reached out to IEC of Oregon and his attendance and certification (enclosed) for the class was corrected and confirmed on September 26th, 2023 by Gina Cumming, Marketing and Events Manager.

At that time, Mr. Dougherty was informed by Ms. Cumming that his licensing issues were resolved and that he should expect confirmation by mail later. Mr. Dougherty never received an invoice or any further documentation from the State of Oregon and therefore assumed that the confirmation from the IEC was all that was required to renew his license.

On March 31st, 2025 upon a chance review of his license, Mr. Dougherty realized that he never received an updated card for the subsequent years after renewal. The following day, he reached out to Ms. Cumming to clarify the situation and to request aid in acquiring a replacement card. HE was informed at that time that his license had not been renewed due to a lack of payment and documentation with the Sate of Oregon. Furthermore, program specialist Becky Rasca at the Building Codes Division has since advised that Mr. Dougherty would need to re-test to secure and reinstate his LEB licensing.

Mr. Dougherty now understands that he should have filed a final document with payment to the State in addition to the course filing. However, due to the misunderstanding with the IEC instruction, and a lack of invoice or request for payment from the State, Mr. Dougherty is requesting a hardship exception. He would like to submit the appropriate documentation and payment immediately and humbly requests that his license renewal simply be backdated, as if this issue had never occurred.

Mr. Dougherty has been gainfully employed by our company as a licensed Journeyman and instructor for over 15 years. During that time frame, he has gone above and beyond the standard continuing education requirements, has been and continues to be a respected member of the HVA/C community in which we operate, and has gained countless hours of on-the-job expertise. We strongly support Mr. Dougherty in his pursuit of a hardship exception, and formally request that it be granted on his behalf.

We thank you for your consideration and attention to this matter.

With Regards,

Rodger Brown, CEO

[Enclosures (2)]

Sydni Knight, CFO


September 23, 2023
2023 Limited Energy NEC Code Class

Certificate

Repealed

	First Name	Last Name	Please Sign in or Indicate Attended	Note	STATE ELECTRIC LICENSED ATTENDEES
					Journeyworkers: To receive 8 CEU credits from this class please enter/confirm your OR & WA License Number
1	Rodger <i>scut</i>	Brown	ONLINE	PD	Clean Air Act 3141 LEA
2	Dennis <i>scut</i>	Bryant	ONLINE	Mem	Bry-Com 1394 LEA <i>Submitted to WA 12/2/23</i>
3	Scott <i>scut</i>	Bryant	ONLINE	Mem	Bry-Com 5084 LEA
4	Taylor <i>scut</i>	Casey	ONLINE	Mem	New Century Communications 5169 LEB
5	Thomas <i>scut</i>	Cass	ONLINE	PD	Solutions, Inc. 3964 LEA
6	Michael <i>scut</i>	Depew	ONLINE	PD	NAES Corporation 3227 LEA
7	Jason <i>Jayson scut</i>	Doughtery	ONLINE	PD	Twisted Pair Inc. 5117 LEB
8	Danial <i>scut</i>	Dryer <i>Dreyer</i>	ONLINE	PD	Clean Air Act 4213 LEB
9	Sean <i>scut</i>	Farrell	ONLINE	PD	Meyer Pro Inc. 4957 LEB
10	David <i>scut</i>	Faulkner	ONLINE	PD	OSCD62 5365 LEA
11	Victoria <i>scut</i>	Flagg	ONLINE	PD	4249 LEB
12	William <i>scut</i>	Graffius	ONLINE	Mem	Jareds Alarm DBA Pacific Alarm Sys 5886 LEA

September 23, 2023
2023 Limited Energy NEC Code Class

2023 LE NEC Code Class Date: September 23, 2023					
INSTRUCTOR NAME: Dave Gilson Course Number 14502360					
LOCATION OF COURSE: 3710 Portland Road NE Salem, Oregon 97301					
INSTRUCTOR SIGNATURE: 			DATE: <i>September 23, 2023</i>		
COURSE SPONSOR: INDEPENDENT ELECTRICAL CONTRACTORS OF OREGON					
ADDRESS: 11481 SW Hall Blvd Suite 100 Tigard, Oregon 97223					
PHONE NUMBER: 503-598-7789					

CONTINUING EDUCATION CERTIFICATE

8 HOURS CEU

JAYSON DOUGHERTY

YOU HAVE SUCCESSFULLY COMPLETED THE FOLLOWING:

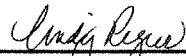
2023 LIMITED ENERGY NEC CODE CHANGE COURSE

COURSE NUMBERS: OR – 4502360 AND WA2023-422

DATE: SEPTEMBER 23, 2023 LOCATION: IETC SALEM

SPONSOR: IEC OREGON

INSTRUCTOR: DAVE GILSON



CINDY REGIER

IEC EXECUTIVE DIRECTOR



**Agenda
Item
VII.D.**

Graham Roney, Licensing Manager
Brian Crise, Electrical Chief
1535 Edgewater St NW
PO Box 14470
Salem, OR 97309

April 30, 2025

To whom it may concern,

This letter is sent on behalf of our Journeyman, Andrew LeClair, who is experiencing a licensing hardship regarding his LEB, license number 5238.

On September 23, 2023, Mr. LeClair took a Limited Energy Class with Dave Gilson. His attendance originally went unrecorded on the roster, however Mr. LeClair proactively reached out to IEC of Oregon and his attendance and certification (enclosed) for the class was corrected and confirmed on September 26, 2023 by Gina Cumming, Marketing and Events Manager.

At that time, Mr. LeClair was informed by Ms. Cumming that his licensing issues were resolved and that he should expect confirmation by mail. Mr. LeClair mistakenly understood from this conversation that his license was both secured and renewed. Mr. LeClair never received an invoice from the State of Oregon or the Building Codes Division requesting further paperwork or payment. This was his first renewal requirement, and he did not realize that further documentation and payment was needed.

On March 31st, 2025, another technician in our company realized that he never received his update license card. Upon discussing this with the rest of our crew, Mr. LeClair verified that he too, had never received his updated card for the subsequent years. Together, they reached out to Ms. Cumming to clarify the situation and to request aid in acquiring a replacement card. They were informed that neither license had been renewed due to lack of payment and documentation to the State. Furthermore, program specialist Becky Rasca at the Building Codes Division has advised that Mr. LeClair would now need to re-test to secure current LEB licensing.

Mr. LeClair now understands that he should have filed a final document with payment to the State in addition to the course filing. He admits his misunderstanding and is willing to rectify it immediately. He intends to file the correct paperwork and make payment in full to the State of Oregon as soon as possible.

Mr. LeClair has been gainfully employed by our company as a licensed Journeyman for the duration of his licensure and to the current date. He has dutifully taken all necessary continuing education credits during this time frame. Mr. LeClair is a respected member of the HVA/C community in which we operate and retains thousands of hours of on-the-job experience. We feel strongly that his licensure lapse was a misunderstanding due to unclear verbiage.

We formally request that Mr. LeClair be granted a reprieve due to hardship regarding his license. We humbly request the license renewal date not be extended but simply backdated as if the issue never occurred. We thank you for your consideration and attention to this matter.

With Regards,

Rodger Brown, CEO

{Enclosure 2}

Sydni Knight, CFO

CONTINUING EDUCATION CERTIFICATE

8 HOURS CEU

ANDREW LECLIAR

YOU HAVE SUCCESSFULLY COMPLETED THE FOLLOWING:

2023 LIMITED ENERGY NEC CODE CHANGE COURSE

COURSE NUMBERS: OR – 4502360 AND WA2023-422

DATE: SEPTEMBER 23, 2023 LOCATION: IETC SALEM

SPONSOR: IEC OREGON

INSTRUCTOR: DAVE GILSON



CINDY REGIER

IEC EXECUTIVE DIRECTOR

Certs.

September 23, 2023
2023 Limited Energy NEC Code Class

CONVERGENT - LIC 2808 LEA
2808 LEA

13						
14	Roger <i>sent</i>	Hayworth	<i>sent</i>	ONLINE	PD	JH Kelly 4768 LEA
15	Albert	Jamito	<i>sent</i>	<i>Albert Jamito</i>	PD	Convergent Technologies 2808 LEA 4768 LEA
16	Kirin	Kapin	<i>sent</i>	ONLINE	PD	Half-Watt Electric 5285 LEA
17	Andrew <i>sent</i>	Lecliar	<i>NAME CHANGED</i>	<i>submitted 10/12</i>	PD	Clean Air Act 5238 LEB
18	Jaime <i>sent</i>	Mava	<i>NAVA</i>	ONLINE	PD	Merchtel 4920 LEB
19	Lee <i>sent</i>	McClure		ONLINE	New Mem	New Century Communications 1327 LEA
20	Michael <i>sent</i>	McNeely		ONLINE	PD	UCSI 2953 LEA
21	Guy <i>sent</i>	Munns		ONLINE	PD	Johnson Controls 5323 LEA
22	James R <i>Cancelled</i>	Payel		<i>Cancelled out of class</i>	PD	Pavel Communications, Inc. 699 LEA
23	James J <i>Cancelled</i>	Pavel		<i>Cancelled out of class</i>	PD	Pavel Communications, Inc. 5568 LEA
24	Jenee <i>sent</i>	Pearce-Mushen		ONLINE	Mem	Jareds Alarm DBA Pacific Alarm Sys
25	Kory <i>sent</i>	Phillips		ONLINE	PD	<i>koryleejphillips@gmail.com</i> 5391 LEB
26	Jason <i>sent</i>	Williams		ONLINE	member	Day Wireless 5425 LEB
	Dave	Gilson			Ins	Tera-Byte Technologies 1827 LEA
	Kyle	Stewart		<i>PAID 9/24</i>		5464 LEA

9/24 3:30 pm @


email sent 9/25 called 9/24

needs TCPA

for Group Submitted 9/24

NA

September 23, 2023
2023 Limited Energy NEC Code Class

2023 LE NEC Code Class Date: September 23, 2023				
INSTRUCTOR NAME: Dave Gilson Course Number 14502360				
LOCATION OF COURSE: 3710 Portland Road NE Salem, Oregon 97301				
INSTRUCTOR SIGNATURE: 		DATE: <i>September 23 2023</i>		
COURSE SPONSOR: INDEPENDENT ELECTRICAL CONTRACTORS OF OREGON				
ADDRESS: 11481 SW Hall Blvd Suite 100 Tigard, Oregon 97223				
PHONE NUMBER: 503-598-7789				

State of Oregon

Board memo

Building Codes Division

May 22, 2025

To: Electrical and Elevator Board

From: Ian Paik, policy analyst, Policy and Technical Services

Subject: Continuing Education Applications

Action requested:

Electrical and Elevator Board consideration of the Electrical Program Chief's recommendations regarding continuing education courses and instructors.

Background:

The Electrical and Elevator Board establishes continuing education requirements for all electrical licensees in order to ensure licensees possess up-to-date knowledge of the code and administrative requirements. The board sets standards for approval of courses and instructors in order to have a sufficient number and variety of continuing education courses available to licensees.

The Electrical Program Chief has been evaluating courses and instructors on the board's behalf. In April, the Electrical Program Chief reviewed 12 applications from three organizations:

- 11 courses were recommended for approval.
- One instructor was recommended for approval.

See attached summary for more information.

In addition to the Oregon Rule and Law criteria, the committee uses the following when reviewing applications:

- NFPA 70E courses are eligible for a maximum of eight hours code-related credits.
- OSHA 10 courses are eligible for a maximum of four hours code-related credits.
- OSHA 30 courses are eligible for a maximum of sixteen hours code-related credits.
- First Aid/CPR courses are eligible for a maximum of four hours code-related credits (two hours for each course).
- For correspondence courses – Provider must submit complete course.
- For online courses – Provider must submit a log-on or screen shots of course content.

Options:

- Approve the Electrical Program Chief's recommendations for approval or denial of courses or instructor.
- Amend and approve the Electrical Program Chief's recommendations for approval or denial of courses or instructor.
- Disapprove the Electrical Program Chief's recommendations for approval or denial of courses or instructor.

Electrical and Elevator Board
Electrical Program Chief on Continuing Education Course and Instructor Review
May 22, 2025

Courses

	Applicant	Course Name	Electrical Program Chief Recommendation	Board Action
1	1st Choice CE	12 hour Electrician code-related NEC 2023 12 CR, Online	Approve for 2023 code cycle	
2	1st Choice CE	8 hour Electrician code-related NEC 2023 8 CR, Online	Approve for 2023 code cycle	
3	NECA-IBEW	Intro to Security System Installs 8 CR, Live	Approve for 2023 code cycle	
4	Whistler Technical Education	Analysis of Changes 8 hour 8 CC; Model Code, Online Streaming	Approve for 2023 code cycle	
5	Whistler Technical Education	Analysis of Changes 8 hour w/OESC 8 CC, Online Streaming	Approve for 2023 code cycle	
6	Whistler Technical Education	Analysis of Changes 12 hour w/OESC 8 CC, Online Streaming	Approve for 2023 code cycle	
7	Whistler Technical Education	Analysis of Changes Part 1, 4 hour 4 CC; MC, Online Streaming	Approve for 2023 code cycle	
8	Whistler Technical Education	Analysis of Changes Part 2, 4 hour 4 CC; MC, Online Streaming	Approve for 2023 code cycle	
9	Whistler Technical Education	2023 SOARES Grounding and Bonding 8 CR, Online Streaming	Approve for 2023 code cycle	
10	1st Choice CE	6 hour Electrician code-related NEC 2023 6 CR, Online	Approve for 2023 code cycle	

11	1st Choice CE	4 hour Electrician code-related NEC 2023 4 CR, Online	Approve for 2023 code cycle	
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Instructor

	Applicant	Electrical Program Chief Recommendation	Board Action
1	Juan Hernandez Jr. 1st Choice CE	Approve for 2023 code cycle	